

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA, : 09-CR-00466(BMC)

-against- : United States Courthouse.

: Brooklyn, New York.

: Thursday, December 6, 2018

JOAQUIN ARCHIVALDO GUZMÁN : 9:30 a.m.

LOERA, :

Defendant. :

----- X

TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL  
BEFORE THE HONORABLE BRIAN M. COGAN  
UNITED STATES DISTRICT JUDGE, and a jury

A P P E A R A N C E S:

For the Government: RICHARD P. DONOGHUE, ESQ.  
United States Attorney.  
Eastern District of New York  
271 Cadman Plaza East.  
Brooklyn, New York 11201  
BY: GINA M. PARLOVECCHIO, ESQ.  
ANDREA GOLDBARG, ESQ.  
MICHAEL P. ROBOTTI, ESQ.  
Assistant United States Attorneys.

United States Attorney's Office.  
Southern District of Florida  
99 NE 4th Street.  
Miami, Florida 33132  
BY: ADAM S. FELS, ESQ.  
Assistant United States Attorney.

A P P E A R A N C E S: (Continued)

For the Government: Department of Justice, Criminal Division  
Narcotic and Dangerous Drug Section.  
145 N. Street N.E.  
Suite 300.  
Washington, D.C. 20530.  
BY: ANTHONY NARDOZZI, ESQ.  
AMANDA LISKAMM, ESQ.

For the Defendant: BALAREZO LAW  
400 Seventh Street, NW  
Suite 306  
Washington, DC 20004  
BY: A. EDUARDO BALAREZO, ESQ.

LAW OFFICES OF JEFFREY LICHTMAN  
11 East 44th Street.  
Suite 501.  
New York, New York 10017.  
BY: JEFFREY H. LICHTMAN, ESQ.  
PAUL R. TOWNSEND, ESQ.

LAW OFFICE OF PURPURA and PURPURA  
8 E. Mulberry Street.  
Baltimore, Maryland 21202.  
BY: WILLIAM B. PURPURA, ESQ.

LAW OFFICES OF MICHAEL LAMBERT, ESQ.  
369 Lexington Avenue.  
2nd Floor - PMB #229.  
New York, New York 10017.  
BY: MARIEL COLON MIRO, ESQ.

Court Reporter: Stacy A. Mace, RMR, CRR, RPR, CCR  
Official Court Reporter  
E-mail: SMaceRPR@gmail.com

Proceedings recorded by computerized stenography. Transcript  
produced by Computer-aided Transcription.

Proceedings

2371

1 (In open court.)

2 (Judge BRIAN M. COGAN enters the courtroom.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Good morning.

5 Let's have the jury, please.

6 (Jury enters.)

7 THE COURT: Everyone, be seated.

8 Good morning, ladies and gentlemen.

9 THE JURY: Good morning.

10 THE COURT: The Government's next witness?

11 MR. LICHTMAN: The Government calls Steven DeMayo.

12 THE COURTROOM DEPUTY: Please, raise your right

13 hand.

14

15 (Continued on following page.)

16

17

18

19

20

21

22

23

24

25

DeMayo - direct - Robotti

2372

1 STEVEN DeMAYO,

2 called as a witness having been

3 first duly sworn, was examined and testified

4 as follows:

5 THE COURTROOM DEPUTY: Please, state and spell your  
6 name for the record.

7 MR. ROBOTTI: Steven with a V, DeMayo D-E, capital  
8 M, A-Y-O.

9 THE COURTROOM DEPUTY: You may be seated.

10 THE COURT: You may inquire.

11 MR. ROBOTTI: Thank you, Judge.

12 DIRECT EXAMINATION

13 BY MR. ROBOTTI:

14 Q Good morning.

15 A Good morning.

16 Q Are you employed?

17 A Yes.

18 Q And what is your present position?

19 A I am a special agent with the United States Postal  
20 Service, Office of the Inspector General, most commonly known  
21 as USPS OIG.

22 Q And how long have you been with the Postal Service?

23 A Approximately 12 years.

24 Q What are your present duties and responsibilities with  
25 the Postal Service?

DeMayo - direct - Robotti

2373

1 A I currently serve as the national program manager for  
2 narcotics investigations within my agency.

3 MR. BALAREZO: Excuse me, Your Honor, is he speaking  
4 into the mic? I am having trouble hearing him.

5 THE COURTROOM DEPUTY: It's the lapel mic.

6 THE COURT: Move it a little higher.

7 MR. BALAREZO: Thank you.

8 THE WITNESS: Is that better?

9 MR. BALAREZO: Yes, thank you.

10 BY MR. ROBOTTI:

11 Q Where did you work before the Postal Service?

12 A I was employed with the United States Customs Service and  
13 its successor agency ICE, Immigration and Customs Enforcement.

14 Q And for how long were you with Customs and then ICE  
15 before you joined the Postal Service?

16 A Approximately 11 years.

17 Q And what were your duties and responsibilities as a  
18 special agent with Customs and ICE?

19 A Primarily, I was involved with narcotics trafficking and  
20 smuggling investigations, as well as money laundering.

21 Q So, in total, how long have you been in law enforcement?

22 A Next month, I will have 24 years.

23 Q Are you familiar with someone known as Tirso Martinez  
24 Sanchez?

25 A Yes, I am.

DeMayo - direct - Robotti

2374

1 Q How so?

2 A He was the primary subject of a long-term investigation I  
3 was the case agent for.

4 Q During approximately what years did you investigate Tirso  
5 Martinez Sanchez?

6 A From approximately September of 2000 through 2006.

7 Q And what, if any, types of transportation methods did  
8 your investigation involve?

9 A Tractor-trailers and railroad tanker cars.

10 Q Now, you mentioned you were the case agent.

11 What was your role as the case agent in this  
12 investigation?

13 A I was the lead investigator, so I was pretty much in  
14 charge of the direction of the investigation, the timing of  
15 events. I dealt mostly with the prosecutors and did most of  
16 the actual investigation.

17 MR. ROBOTTI: I'd like to show you what's been  
18 marked for identification as Government's Exhibit 74A and  
19 Government's Exhibit 74B.

20 74A first. And 74B.

21 Q Do you recognize these?

22 A I do.

23 Q What are they?

24 A These are photographs of Tirso Martinez Sanchez.

25 MR. ROBOTTI: Your Honor, the Government moves

DeMayo - direct - Robotti

2375

1 Government's Exhibits 74A and 74B in evidence.

2 MR. BALAREZO: No objection.

3 THE COURT: Received.

4 (Government's Exhibits 74A and 74B received in  
5 evidence.)

6 MR. ROBOTTI: All right. So, looking first at  
7 Government's Exhibit 74A.

8 (Exhibit published to jury.)

9 Q Is this the person you identified as Tirso Martinez  
10 Sanchez?

11 A Yes, it is.

12 MR. ROBOTTI: And 74B.

13 (Exhibit published to jury.)

14 Q Which person is he in the photograph?

15 A He's the individual on the right in the tan-colored,  
16 long-sleeved sweater.

17 Q And what were his aliases?

18 A Tirso El Centenario, El Futbolista.

19 Q And others as well?

20 A Yeah.

21 Q Now, are you familiar with someone named Juan Bugarin?

22 A I am.

23 Q How so?

24 A He was also the subject of my investigation that I just  
25 mentioned.

DeMayo - direct - Robotti

2376

1 Q And why were you investigating him?

2 A He was identified through numerous records as being --

3 MR. BALAREZO: Objection.

4 THE COURT: It is not being offered for the truth.

5 Overruled.

6 Q Continue.

7 A Through review of various records he was identified as  
8 being someone involved with the movement of railroad tanker  
9 cars into and out of the United States.

10 MR. ROBOTTI: I show you what's been marked for  
11 identification as Government's Exhibit 32.

12 Q Do you recognize this person?

13 A I do.

14 Q Who is that?

15 A That is Juan Bugarin.

16 MR. ROBOTTI: Your Honor, the Government offers  
17 Government's Exhibit 32 into evidence.

18 MR. BALAREZO: No objection.

19 THE COURT: Received.

20 (Government's Exhibit 32 received in evidence.)

21 (Exhibit published to jury.)

22 Q Just for the jury, this is the person you identified as  
23 Juan Bugarin?

24 A Yes.

25 Q Now, are you familiar with someone named Jose Gudino



DeMayo - direct - Robotti

2377

1 Silva?

2 A I am.

3 Q How so?

4 A He is another subject of my investigation.

5 Q And why were you investigating him?

6 A He was identified as being involved with Felix for  
7 purchase of numerous warehouses or lease of railroad tanker  
8 cars.

9 MR. ROBOTTI: I'd like to show you what's been  
10 marked for identification as Government's Exhibit 57.

11 Q Do you recognize this?

12 A I do.

13 Q And who is this?

14 A This is a photograph of Jose Gudino Silva.

15 MR. ROBOTTI: Your Honor, the Government offers  
16 Government's Exhibit 57 into evidence.

17 MR. BALAREZO: No objection.

18 THE COURT: Received.

19 (Government's Exhibit 57 received in evidence.)

20 (Exhibit published to jury.)

21 Q And did he have any aliases?

22 A Yes.

23 Q And what were those?

24 A Manuel Silva, Joe Silva, and El Notorio.

25 Q All right. I'd like to discuss how your investigation

DeMayo - direct - Robotti

2378

1 got started. So, let me direct your attention to  
2 December 14th, 2000.

3 Were you working as a special agent for Customs that  
4 day?

5 A Yes, I was.

6 Q And what happened?

7 A Pursuant to an investigation I was conducting I had  
8 applied for and received a Federal search warrant for a  
9 residence located at 12 Glasgow Avenue in Deer Park,  
10 Long Island, New York.

11 Q And did you execute that search warrant?

12 A I did. The warrant was for the residence as well as some  
13 out-buildings that were on the property.

14 Q And what did you recover that day?

15 A Among the items recovered were 500 kilograms or  
16 1100 pounds of cocaine from a shed that was located next to  
17 the house.

18 Q Now, following this seizure of about 500 kilos in Deer  
19 Park, Long Island, what investigative steps did you take?

20 A We conducted a review of various pieces of evidence that  
21 were recovered from the search warrant, both documents bearing  
22 things related to cell phones.

23 We also had the opportunity to debrief several of  
24 the people that were arrested that day.

25 Q And where did your investigation lead you?

DeMayo - direct - Robotti

2379

1 A It led us to a warehouse located in New Jersey that was  
2 rented for the purposes of storing that 500 kilograms of  
3 cocaine.

4 MR. ROBOTTI: Now, I'd like to show you what's been  
5 marked as --

6 Q I'm sorry, what was the address of that location in  
7 New Jersey?

8 A 15 Green, as the color, Street, Hackensack, New Jersey.

9 MR. ROBOTTI: All right. I'd like to show you  
10 what's been marked for identification as Government's  
11 Exhibit 216-1.

12 Q Do you recognize this?

13 A I do.

14 Q What is this?

15 A This is a photograph I took of the warehouse.

16 Q At 15 Green Street?

17 A Correct.

18 MR. ROBOTTI: Your Honor, the Government offers  
19 Government's Exhibit 216-1 into evidence.

20 MR. BALAREZO: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 216-1 received in evidence.)

23 (Exhibit published to jury.)

24 Q So, what do we see here?

25 A So, you have the roll-up door, the large black door on

DeMayo - direct - Robotti

2380

1 the left and then, the door used by people to go in and out on  
2 the right, the smaller black door. It's a picture of the  
3 front of the warehouse.

4 Q Now, what investigative steps did you take with respect  
5 to this warehouse?

6 A We further investigated the circumstances that led to the  
7 acquisition of this warehouse; particularly, spoke to the real  
8 estate agent that had been involved in the lease of the  
9 warehouse.

10 Q And did you ultimately obtain lease documents for  
11 15 Green Street, Hackensack, New Jersey?

12 A Yes, we did.

13 MR. ROBOTTI: All right. I'd like to show you  
14 what's been marked as Government's Exhibit 403-5 for  
15 identification.

16 Q Do you recognize this document?

17 A I do.

18 Q And what is it?

19 A It's a certificate of authenticity certified record for  
20 the lease of that warehouse.

21 Q And just briefly, turning to the first page of the next  
22 document, is that the lease?

23 A Yes.

24 MR. BALAREZO: Your Honor, we have no objection.

25 THE COURT: All right. 403-5 is received.

DeMayo - direct - Robotti

2381

1 (Government's Exhibit 403-5 received in evidence.)

2 (Exhibit published to jury.)

3 Q All right so this is the lease for 15 Green Street;  
4 correct?

5 A Yes.

6 MR. ROBOTTI: Let me direct your attention to  
7 page 328692.

8 (Exhibit published to jury.)

9 Q And what company leased this property?

10 A Sunshine State Enterprises.

11 Q And what's the date of the lease?

12 A July 31st, 2000.

13 MR. ROBOTTI: And turning to page 328696.

14 (Exhibit published to jury.)

15 Q What's the aggregate base rent for this warehouse?

16 A It's \$105,000 per year.

17 MR. ROBOTTI: And looking to 328698.

18 (Exhibit published to jury.)

19 Q Who signed the lease on behalf of Sunshine State  
20 Enterprises?

21 A Eliu Nevarez.

22 MR. ROBOTTI: Then looking back to 328695.

23 (Exhibit published to jury.)

24 Q Who's listed as one of the officers here?

25 A Joseph Silva, treasurer, slash, senior vice president.

DeMayo - direct - Robotti

2382

1 Q Now, after obtaining this lease for 15 Green Street with  
2 Joseph Silva's name on it, what investigative steps did you  
3 take next?

4 A Through the lease documents we identified other  
5 investigative leads, including different phone numbers that  
6 were in the file that were taken during the negotiations for  
7 the lease of the warehouse.

8 Q So, these were phone numbers in the lease file?

9 A Yes.

10 Q And what happened next?

11 A We pulled phone records for those particular phone  
12 numbers and then did analysis of those records.

13 Q Where did those phone numbers lead you?

14 A They led us to the identification of additional real  
15 estate companies in and around the New Jersey area.

16 Q And ultimately, did you get in contact with a real estate  
17 company called Zimmer Associates?

18 A Yes, I did.

19 Q And what, if anything, did you obtain from them?

20 A We interviewed them. We obtained additional lease  
21 records for other warehouses that they had on file.

22 MR. ROBOTTI: Now, I'd like to show you what's been  
23 marked for identification as Government's Exhibit 403-4.

24 Q What is this?

25 A This is a certified record for a warehouse in Piscataway,

DeMayo - direct - Robotti

2383

1 New Jersey; in particular, 7 Turner Place, Piscataway,  
2 New Jersey.

3 MR. BALAREZO: No objection, Your Honor.

4 THE COURT: 403-4 is received.

5 MR. ROBOTTI: Thank you, Judge.

6 (Government's Exhibit 403-4 received in evidence.)

7 (Exhibit published to jury.)

8 Q This is one of the leases obtained from Zimmel  
9 Associates?

10 A Yes.

11 Q For 7 Turner Place, Piscataway, New Jersey?

12 A Correct.

13 MR. ROBOTTI: All right, let me direct your  
14 attention to 328666.

15 (Exhibit published to jury.)

16 Q Now, what company rented 7 Turner Place?

17 A Azteca Leather Incorporated, a division of Azteca  
18 Imports.

19 Q And directing your attention to paragraph 6 on this page.

20 What was the purpose of this -- renting this  
21 warehouse?

22 A Importing, storage and distribution of leather products,  
23 clothing and accessories, and vegetable based cooking oil.

24 MR. ROBOTTI: Next turning to page 328670.

25 (Exhibit published to jury.)

DeMayo - direct - Robotti

2384

1 Q And looking to the center of the paragraph, the first  
2 paragraph under section three.

3 What was the rent for this warehouse?

4 A \$123,624 per year.

5 MR. ROBOTTI: And then looking at page 328688.

6 (Exhibit published to jury.)

7 Q Who signed this lease on behalf of Azteca Leather,  
8 Incorporated?

9 A Joseph Silva, president.

10 MR. ROBOTTI: And then directing your attention to  
11 Page 738690.

12 (Exhibit published to jury.)

13 Q What's this document here?

14 A This is basically a letter indicating that the terms of  
15 the lease are agreed to. I guess it's a confirmation letter.

16 Q What's the date of the letter?

17 A It's November 30th, 2000.

18 Q And looking at the bottom of the letter here again, who  
19 signed this on behalf of Azteca Leather, Incorporated?

20 A Joseph Silva, senior vice president.

21 MR. ROBOTTI: All right, I'd like to show you what's  
22 been marked for identification as Government's Exhibit 403-6.

23 Q Do you recognize this document?

24 A I do.

25 Q And what's this one?



DeMayo - direct - Robotti

2385

1 A This is a certified -- certificate of authenticity for  
2 another warehouse, 7 -- excuse me -- 275 Veterans Boulevard in  
3 Rutherford, New Jersey.

4 MR. ROBOTTI: The Government offers Government's  
5 Exhibit 403-6 into evidence.

6 MR. BALAREZO: No objection.

7 THE COURT: Received.

8 (Government's Exhibit 403-6 received in evidence.)

9 (Exhibit published to jury.)

10 Q Is this another lease you obtained from Zimmel  
11 Associates?

12 A That's correct.

13 MR. ROBOTTI: I'd like to direct your attention to  
14 page 328709.

15 (Exhibit published to jury.)

16 Q Now, what company rented this warehouse?

17 A Sunshine State Enterprises Corporation.

18 Q And what's the date of this lease here?

19 A April 22nd, 1999.

20 Q And what's the annual base rent?

21 A \$235,641.

22 MR. ROBOTTI: And directing your attention to  
23 page 328728.

24 (Exhibit published to jury.)

25 Q Who signed the lease for this company on behalf of

DeMayo - direct - Robotti

2386

1 Sunshine State Enterprises?

2 A Joseph Silva, senior vice president.

3 Q All right, so let's talk about the lease for 7 Turner  
4 Place that we just went through.

5 After obtaining that lease, what investigative steps  
6 did you take?

7 A Myself and my partner went and visited. When I say  
8 visited, we drove by the warehouse.

9 Q And what did you observe?

10 A We observed a large warehouse building and we observed on  
11 the rear side of that building two large railroad tanker cars  
12 that were butted up to the rear of the warehouse on a small  
13 railroad track.

14 Q Did you also apply for a search warrant for this  
15 property?

16 A We did.

17 Q And why did you apply for the search warrant?

18 A Applied for the search warrant for two main reasons.

19 One is that it had been rented by Joseph Silva and  
20 Joseph Silva was known to me as having been involved with the  
21 seizure of the 500 kilograms, as I mentioned earlier, on  
22 November 14th, 2000.

23 The second reason, excuse me, was in investigating  
24 those two railroad tanker cars further, they had crossed into  
25 the United States from the Republic of Mexico less than a year

DeMayo - direct - Robotti

2387

1 earlier.

2 Q And did you ultimately execute this search warrant?

3 A I did.

4 Q And what date was that?

5 A That was on December 7th of 2002.

6 Q And in general, what did you find at 7 Turner Place?

7 A We found evidence of a what appeared to be some type of a  
8 smuggling operation.

9 Q And just briefly, in general, what types of things did  
10 you see there?

11 A We located, obviously, those two railroad tanker cars.  
12 We examined the contents of them. We examined the inside of  
13 the warehouse where we found various electrical devices and  
14 cords and lighting. We found a very long, rigid, rubber tube.  
15 On the exterior of the property we found three pick-up trucks  
16 which had numerous large barrels on the backs of the pick-up  
17 trucks on the flat-bed area. And we identified, within each  
18 of those three pick-up trucks were these secret compartments,  
19 sometimes called "clavos" in Spanish, usually used to hide  
20 contraband.

21 MR. ROBOTTI: So I'd like to show you what's been  
22 marked for identification as Government's Exhibits 216-19,  
23 216-29.

24 MR. BALAREZO: Your Honor, we have no objection to  
25 these.

DeMayo - direct - Robotti

2388

1 THE COURT: Okay. They are received.

2 (Government's Exhibits 216-19 and 216-29 received in  
3 evidence.)

4 MR. ROBOTTI: All right so let's look first at  
5 Government's Exhibit 216-19.

6 (Exhibit published to jury.)

7 Q What do we see here?

8 A It's a photograph that I took of the front of the  
9 warehouse at 7 Turner Place, Piscataway, New Jersey.

10 Q And is the address listed on the front there?

11 A Yes, the front sign, the number.

12 MR. ROBOTTI: Looking next to Government's  
13 Exhibit 216-20.

14 (Exhibit published to jury.)

15 Q What do we see here?

16 A It's a picture I took of the two aforementioned railroad  
17 tanker cars that had come from Mexico that I located on the  
18 rear side of the warehouse.

19 Q Now, what's the tanker number that's visible in this  
20 photograph?

21 A It's GATX 124140.

22 Q And what are these tanker cars sitting on?

23 A A railroad spur, which is just a short piece of track  
24 that allows for railroad cars to be put close to a warehouse  
25 for loading and unloading purposes.

DeMayo - direct - Robotti

2389

1 THE COURT: What does the spur connect to?

2 THE WITNESS: A larger railroad connecter. It's  
3 basically the end of the railroad line for that warehouse.

4 Q And you mentioned you examined the contents of these  
5 tanker cars.

6 Could you describe what you found inside?

7 A Yes. One of the cars was empty. The second car, on the  
8 interior, had approximately eight to nine inches of a thick,  
9 yellow, oily substance that was covering the entire bottom of  
10 the tanker car.

11 Q And just looking under GATX here. What does it say right  
12 below that?

13 A *"de Mexico."*

14 MR. ROBOTTI: Now, I'd like to look next at  
15 Government's Exhibit 216-21.

16 (Exhibit published to jury.)

17 Q What do we see here?

18 A This is a photo I took. At the bottom of the photo is  
19 just the portion of one of the two railroad tanker cars and  
20 then, that is the railroad spur that I just spoke about that  
21 leads away from the warehouse and feeds into larger railroad  
22 tracks.

23 Q And you are able to see the main train line back there?

24 A There is a, another one that's here. But basically, it's  
25 almost like in the way your body's constructed, there's

DeMayo - direct - Robotti

2390

1 capillaries, and then larger veins, and then they go to  
2 arteries. I can make that analogy.

3 MR. ROBOTTI: Looking next at Government's  
4 Exhibit 216-22.

5 (Exhibit published to jury.)

6 Q What is this?

7 A This is a photograph taken of the interior of one of the  
8 railroad tanker cars at that location. In particular, this  
9 round object is a valve that's located on the bottom of the  
10 tanker that would allow for the emptying of any contents  
11 through the bottom of the tanker.

12 MR. ROBOTTI: All right. Looking next at 216-23.

13 (Exhibit published to jury.)

14 Q What do we see here?

15 A Various items, but in particular, there's a kind of a  
16 long, thin, shaped piece of fiberglass-like substance about an  
17 eighth of an inch thick that I found on the ground just  
18 outside where the top hatch of the railroad tanker car was at  
19 the warehouse.

20 MR. ROBOTTI: I think your microphone may have cut  
21 out there.

22 THE WITNESS: Now? Test?

23 THE COURTROOM DEPUTY: It's fine.

24 THE WITNESS: Better?

25 MR. ROBOTTI: I think it's still off.

DeMayo - direct - Robotti

2391

1 THE WITNESS: Test, test.

2 THE COURT: I hear it, but I always hear it.

3 MR. ROBOTTI: Can you hear me?

4 THE WITNESS: I can hear you.

5 MR. ROBOTTI: I think they're still down.

6 THE COURTROOM DEPUTY: We hear you tapping.

7 MR. ROBOTTI: All right, we will try to keep going.

8 THE WITNESS: Okay.

9 THE COURT: Ladies and gentlemen, can you hear okay?

10 THE JURY: Yes.

11 THE COURT: Okay.

12 Q All right, so let's -- could you just repeat what you  
13 said about this middle piece here?

14 A Yes.

15 So, I found that on the tracks just below the center  
16 of the railroad tanker car. I would describe it as a  
17 Bondo-type or resin piece of sliver, and it's about an eighth  
18 of an inch thick.

19 MR. ROBOTTI: And then looking to Government's  
20 Exhibit 216-24.

21 (Exhibit published to jury.)

22 Q What do we see here?

23 A This is a photograph I took of that large, long --  
24 approximately 17 feet long -- rigid, ribbed pipe or tube.  
25 It's about 16 inches in diameter in the opening.

DeMayo - direct - Robotti

2392

1 MR. ROBOTTI: And 216-25.

2 (Exhibit published to jury.)

3 A This is a photograph I took. This is the top hatch,  
4 which I just mentioned. So, this is the main entry point into  
5 the interior of the tanker car. And this is the opening here.  
6 I took this photo because I had noticed that there were these  
7 numerous deep scratches or gouges along the rim of the hatch  
8 area.

9 Q Okay.

10 MR. ROBOTTI: Looking next at 216-26.

11 (Exhibit published to jury.)

12 Q What do we see here?

13 A These are the three flat-bed pick-up trucks that I had  
14 mentioned when we first initiated the warrant. This is the  
15 condition that they were in.

16 Q And what do we see on top of these three trucks here?

17 A So, there's numerous, I guess, hard plastic drums,  
18 approximately 55-gallon capacity, that were on top of the  
19 flat-bed areas.

20 MR. ROBOTTI: Government's Exhibit 216-27.

21 (Exhibit published to jury.)

22 Q In this photograph are the barrels now on the ground?

23 A Yes, at this point we had begun to further examine those  
24 trucks and as part of that process, we unloaded the barrels.  
25 So, I think this was the first truck that we had started the



DeMayo - direct - Robotti

2393

1 search on.

2 MR. ROBOTTI: Then looking at Government's  
3 Exhibit 216-28.

4 (Exhibit published to jury.)

5 Q What's this?

6 A So, after we take all those barrels off the rear portions  
7 of those trucks, we discovered a trap or a secret compartment  
8 located underneath the wooden boards that comprise the bed  
9 area of those trucks.

10 Q And was there a trap in each truck?

11 A Yes, there was.

12 MR. ROBOTTI: Next, just looking at Government's  
13 Exhibit 216-29.

14 (Exhibit published to jury.)

15 Q What do we see here?

16 A This is just another photo of one of the traps. At this  
17 point we had put a measuring stick to give an indication of  
18 the distance between the natural floor of the compartment and  
19 this top beam here, which is roughly five to six inches.

20 Q And based upon your training and experience, what are  
21 these types of traps used for?

22 A They're used to hide various contraband, drugs, money,  
23 weapons from being detected from discovery.

24 Q Now following this search at 7 Turner Place, did you also  
25 go to 275 Veterans Boulevard in Rutherford, New Jersey?

DeMayo - direct - Robotti

2394

1 A Yes.

2 Q And that was the location associated with the other lease  
3 from Zimmel Associates that we talked about?

4 A That's correct.

5 Q And what prompted you to go to this location?

6 A It was a warehouse that was also leased by Joseph Silva  
7 using the Sunshine State company name. Again, as he was  
8 connected to another large cocaine user we followed up on that  
9 warehouse as well.

10 MR. ROBOTTI: All right, I'd like to show you what's  
11 been marked for identification as Government's Exhibit 216-34  
12 and -35.

13 Q And are these the warehouse at 271 Veterans Boulevard?

14 A Yes.

15 MR. ROBOTTI: Your Honor, the Government offers  
16 216-34 and 216-35 into evidence.

17 MR. BALAREZO: No objection.

18 THE COURT: Received.

19 (Government's Exhibits 216-34 and 216-35 received in  
20 evidence.)

21 (Exhibit published to jury.)

22 Q So, looking first at Government's Exhibit 216-34.

23 What do we see here?

24 A It's a photograph I took of the front of the warehouse  
25 trying to basically fit the street address, which is on the

DeMayo - direct - Robotti

2395

1 bottom of that white sign in the middle there.

2 MR. ROBOTTI: Then looking next at Government's  
3 Exhibit 216-35.

4 (Exhibit published to jury.)

5 Q What do we see here?

6 A This is a picture I took of the rear of the warehouse at  
7 275 Veterans Boulevard. It has a railroad spur that leads up  
8 to the rear of the warehouse. You see a few loading bay doors  
9 along the warehouse.

10 Q All right. So, following your visit to these two  
11 warehouses, the spurs in New Jersey, what happened next?

12 A We continued with our investigation.

13 Q And what specifically did you do?

14 A We, from the new set of lease documents, we were able to  
15 glean additional phone numbers from those lease documents. I  
16 submitted an -- I requested phone records for those phone  
17 numbers that were from the documents and I also submitted  
18 those phone numbers for deconfliction through DEA to see if  
19 they had any information relevant to those phone numbers.

20 Q What do you mean by deconfliction?

21 A The deconfliction is just a term for analyzing and seeing  
22 if there's any other investigations related to those phone  
23 numbers by any other, in this case, DEA.

24 Q And did you ultimately get in contact with DEA agents?

25 A I did.

DeMayo - direct - Robotti

2396

1 Q And what happened next?

2 A Having received a positive hit, so to speak, on a number  
3 or maybe a couple numbers, I got in touch with the case agent  
4 that had the investigation that had the common link of those  
5 phone numbers and I spoke to the case agent. And I was  
6 informed that they --

7 MR. BALAREZO: Objection.

8 THE COURT: Sustained.

9 Q What, if anything, did you do after getting in touch with  
10 the DEA?

11 A We joined our investigations from that point moving  
12 forward.

13 Q And did you ultimately take another investigative step?

14 A Yes.

15 Q And what step was that?

16 A On December 10th of 2003 we conducted a search of a  
17 railroad tanker car that had recently been to the  
18 United States from the Republic of Mexico.

19 MR. ROBOTTI: I'd like to show you now what's been  
20 marked for identification as Government's Exhibit 216-32 and  
21 216-33.

22 THE WITNESS: Mr. Robotti, did I say December 10th,  
23 2003?

24 MR. ROBOTTI: You did.

25 THE WITNESS: It should be January 10th, 2003. And

DeMayo - direct - Robotti

2397

1 I apologize.

2 Q So, the search was conducted on January 10th, 2003?

3 A Correct.

4 MR. ROBOTTI: All right, so looking at those two  
5 Government Exhibits here.

6 Q Do you recognize these?

7 A I do.

8 Q And what are they?

9 A These are photographs I took during the search of that  
10 tanker car that had recently entered the United States.

11 MR. ROBOTTI: The Government offers Government's  
12 Exhibit 216-32 and 216-33 into evidence.

13 MR. BALAREZO: No objection.

14 THE COURT: Received.

15 (Government's Exhibit 216-32 and 216-33 received in  
16 evidence.)

17 MR. ROBOTTI: All right. So, looking at  
18 Government's Exhibit 216-32.

19 (Exhibit published to jury.)

20 Q What do see here?

21 A This is a photograph of tanker car GATX 124006.

22 Q And is this the car you searched?

23 A Yes.

24 Q And how did you search this tanker car?

25 A Through several means. There was about a dozen

DeMayo - direct - Robotti

2398

1 investigators, including some Customs inspectors that were  
2 present with us. We did a search of the exterior areas of the  
3 tanker car for any contraband that could have been hidden in  
4 any natural parts of the tanker car, any natural voids or  
5 cavities. We also conducted a search of the interior of the  
6 car.

7 MR. ROBOTTI: So, looking next at Government's  
8 Exhibit 216-33.

9 (Exhibit published to jury.)

10 Q What do we see here?

11 A This is a photograph of the interior of the railroad  
12 tanker car. Right here is a, there's a light at the end of an  
13 extension cord that provided light because the interior of the  
14 cars has no light, it's pitch black. And this object right  
15 here is basically, for most purposes, just a long rake at the  
16 end of an extended pole. That was used to drag along the,  
17 that oily surface right there, that liquid.

18 Q And what type of liquid was this, can you describe it?

19 A Yellow, thick. Had a distinct odor to it and just not a  
20 pleasant substance to deal with.

21 MR. BALAREZO: I'm sorry, Your Honor, I can't hear  
22 the witness.

23 THE COURT: He said: Not a pleasant substance to  
24 deal with.

25 MR. BALAREZO: Thank you.

DeMayo - direct - Robotti

2399

1 THE COURT: Try to keep your voice up a little bit.

2 THE WITNESS: Okay.

3 THE COURT: Thank you.

4 Q Now, aside from dredging this oil, how else if at all is  
5 the inside of this tanker car searched?

6 A One of the Customs inspectors I was working with had  
7 like, a measuring device, sort of a laser measuring device.  
8 He took some interior measurements of the tanker car from one  
9 end to the other using that device.

10 Q And were there any deviations to those noticed?

11 A There were minor deviations noticed.

12 Q And was there any further inspection conducted as a  
13 result of those minor deviations at this time?

14 A No.

15 Q Why not?

16 A Based upon the enormous size of the tanker car, he was of  
17 the opinion that those variations in distance were, you know,  
18 minor. Not worth proceeding further on.

19 Q Now, what were you looking for when you were searching  
20 this tanker car?

21 A Drugs.

22 Q And did you find any?

23 A I did not.

24

25 (Continued on following page.)

DeMayo - direct - Robotti

2400

1 EXAMINATION CONTINUES

2 BY MR. ROBOTTI:

3 Q And what, if anything, did you do with respect to this  
4 tanker car after you searched it?

5 A Following the search, the tanker car was released back to  
6 the local railroad for ultimate delivery to the consignee in  
7 Queens.

8 Q Now looking back at 216-32 for a moment.

9 (Exhibit published.)

10 Q Did you see this tanker car again?

11 A I did.

12 Q When did you see it?

13 A January 29th, 2003.

14 Q And where did you see it?

15 A At a warehouse located in Queens, New York. Maspeth,  
16 Queens, New York.

17 Q And what was that location?

18 A 51-18 Grand Avenue in Maspeth.

19 Q Now, what prompted you to go to that location on  
20 January 29th, 2003?

21 A DEA had executed a search warrant at that location.

22 Q And what, if anything, was uncovered?

23 A This tanker car was present there, parked along a  
24 railroad spur next to the warehouse. In addition, there was  
25 approximately 2,000 kilograms of cocaine recovered from the



DeMayo - direct - Robotti

2401

1 warehouse, as well as some vehicles that had been stopped  
2 during an enforcement operation.

3 Q Now, what type of location was 51-18 Grand Avenue in  
4 Queens, New York?

5 A It's a warehouse with a railroad track leading up to the  
6 rear.

7 Q And, in general, when you arrived at that location, what  
8 did you observe?

9 A I observed additional evidence of a drug smuggling  
10 operation within the warehouse.

11 Q All right, I'd like to show you what's been marked for  
12 identification as Government Exhibit 216-2A to 216-10.

13 MR. BALAREZO: No objection, Your Honor.

14 THE COURT: All right, those are received.

15 (Government's Exhibits 216-2A to 216-10 were  
16 received in evidence.)

17 BY MR. ROBOTTI:

18 Q All right, so we are first looking at Government  
19 Exhibit 216-2A.

20 Do you recognize this?

21 (Exhibit published.)

22 A I do.

23 Q What is it?

24 A This is a photograph, basically, depicting the front --  
25 front of the warehouse at 51-18 Grand Avenue. It's taken from

DeMayo - direct - Robotti

2402

1 the Grand Avenue position.

2 Q Can you see the address there?

3 A Yeah. It's kind of right there.

4 Q And looking at 216-2B, what's this?

5 (Exhibit published.)

6 A This is another photograph of the warehouse. There is a  
7 very long, narrow alleyway up the middle of the photograph.  
8 At the far end of that alleyway is Grand Avenue, and at the  
9 most closest part of the photograph is, basically, a doorway  
10 or a roll-up door.

11 Q And when were these two photographs, 216-2A and 216-2B,  
12 taken?

13 A These were taken recently, within the last 30 or 60 days  
14 or so.

15 Q And how does this location compare to the time you saw it  
16 back in 2003?

17 A It appears generally to be the same.

18 Q And we see this door in the latter portion of the  
19 photograph here (indicating).

20 What is that?

21 A That is a roll-up door that accesses the interior of the  
22 warehouse.

23 Q I'd like to look at Government Exhibit 216-3.

24 (Exhibit published.)

25 BY MR. ROBOTTI:

DeMayo - direct - Robotti

2403

1 Q What is that?

2 A This is a Google maps aerial overhead map or picture of  
3 the general vicinity of the warehouse.

4 Q And could you identify for the jury where the warehouse  
5 is in this map?

6 A Yes. It's, basically, right in that area right there.  
7 (So marked.) This is Grand Avenue here. (So marked.)

8 Q And about where was that long alleyway we just saw?

9 A Right in that area there. (So marked.)

10 Q Okay. And do you see a train track here?

11 A I do.

12 Q And could you identify that for us?

13 A Yes. I'll kind of draw a line right next to it, but it  
14 kind of curves like a banana. This is the actual track here.  
15 (So marked.)

16 Q So does this run behind the warehouse?

17 A Yeah, it does.

18 Q Let me show you what's marked as Government  
19 Exhibit 216-4.

20 (Exhibit published.)

21 Q Could you identify what we see in this photograph here?

22 A Yes. This is a photograph of a customs inspector that  
23 was present for the search warrant. He's holding together,  
24 basically, two distinct objects.

25 The first object is what I referred to as a stool.

DeMayo - direct - Robotti

2404

1 It is a -- it has a large circular disk-shaped object on one  
2 end (indicating), there is a piece of piping connecting to a  
3 smaller circle on the opposite end. (So marked.)

4 Q And what's the other metal object we see here?

5 A The other object, again, he's piecing them together for  
6 the purposes of demonstration, but it's a large what I call  
7 fan-shaped webbed metal. It's tapered on the bottom end and  
8 it fans out to a wider diameter as it gets towards the top.

9 Q All right, looking at 216-5. What do we see here?

10 (Exhibit published.)

11 A It's a photograph I took. It's a little tough to tell,  
12 but there are six of those stools that I described with the  
13 large circular object on one end and the smaller disk on the  
14 other end.

15 Q And next is 216-6. What do we see here?

16 (Exhibit published.)

17 A Again, interior photograph of the search warrant. It's,  
18 basically, a large pile of discarded metal. It includes both  
19 those wedge-shaped pieces in the sort of the big pile area  
20 here (indicating). There is a stool located right here  
21 (indicating), and in the back, you can kind of see one of  
22 those long rigid tubes that I had described finding in the  
23 Piscataway search on December 7th, 2002.

24 Q Looking at 216-7. What do we see there?

25 (Exhibit published.)

DeMayo - direct - Robotti

2405

1 A This is another photo, obviously. It shows a couple of  
2 those metal stools, and then stacked more neatly here  
3 (indicating) are multiple pieces of those fan-shaped wedges  
4 that I described.

5 Q And just directing your attention to this metal piece in  
6 the foreground here (indicating), what do you notice about  
7 that?

8 A Looking at it, I'll try and sort of trace the -- right  
9 here (indicating) there is sort of a distinct white line that  
10 you can see that is the approximately eight-inch --  
11 one/eighth-inch skim coat of a resin or a bondo-type  
12 substance. Where it's white is where it's been chipped away  
13 or part of it's been removed, so it makes up that distinct  
14 kind of delineation there on the photograph.

15 Q And had you seen something similar to that before?

16 A Yes.

17 Q And where was that?

18 A At the Piscataway search warrant, I had described a --  
19 yes.

20 Q Looking back at 216-23.

21 (Exhibit published.)

22 A Yes, so this -- this piece right here (indicating),  
23 basically the same thickness, same texture and color as I  
24 noticed on that -- in that photograph right there of that  
25 bondo-type substance that had been kind of chipped and

DeMayo - direct - Robotti

2406

1 destroyed.

2 Q Now, looking back or looking next to Government  
3 Exhibit 216-8. What do we see there?

4 (Exhibit published.)

5 A These are barrels of vegetable oil that were being stored  
6 in the Grand Avenue search warrant location.

7 Q About how many of those barrels did you see?

8 A Well over a dozen, I don't recall the exact number.

9 Q Now, looking next to 216-10. What do you see here?

10 (Exhibit published.)

11 A It's a -- basically, a more close-up photo of that long  
12 rigid, ribbed, rubber tube that I had seen at the New Jersey  
13 search warrant location.

14 Q And looking back at 216-24.

15 (Exhibit published.)

16 Q Is this the one you saw at the previous search location?

17 A Yes, that's from the Piscataway search warrant on  
18 December 7th, 2002.

19 Q All right, looking at 216-9. What do we see here?

20 (Exhibit published.)

21 A This is a photograph looking down the top hatch of the  
22 rear tanker car GATX 124006. You kind of see here  
23 (indicating) this is the rim of the hatch area, and looking  
24 down into the bottom of the tanker car material there are some  
25 drop cloths that are -- seem to be soiled. There is various

DeMayo - direct - Robotti

2407

1 extension cords for lighting instruments, and here  
2 (indicating), here (indicating) and here (indicating), are  
3 basically chips or additional pieces of that resin, bondo-type  
4 substance that I had, you know, spoken about earlier.

5 Q And just to be clear, you are on top of the tanker car  
6 looking down through the hatch?

7 A Correct.

8 Q And you mentioned this was tanker car 124006.

9 Is this the same tanker car you had searched a  
10 couple of weeks earlier?

11 A Yes.

12 Q All right. I would next like to show you what's in  
13 evidence as Government Exhibit 216-36.

14 (Exhibit published.)

15 Q Do you recognize this document?

16 A I do.

17 Q And what is it?

18 A This is a VACIS, or Vehicle and Container Inspection  
19 System document. VACIS is, basically, a large X-ray machine.

20 Q So zooming in just a little bit here, what tanker car is  
21 this for?

22 A GATX 124006. Noted here (indicating).

23 Q And is this the same tanker car we just looked at that  
24 was seen at your search on January 10th, 2003?

25 A Yes.

DeMayo - direct - Robotti

2408

1 Q And also the same tanker car seen at the Queens warehouse  
2 on January 28th, 2003?

3 A Correct.

4 Q And what's the date of this image?

5 A It's notated here (indicating), it's December 30th, 2002.

6 Q And where was this image taken?

7 A This was taken upon entry of this tanker car into the  
8 United States from the Republic of Mexico. I'm not sure if it  
9 was in Laredo, Texas or Brownsville, Texas.

10 Q So this was taken before this tanker car arrived in the  
11 New York City area?

12 MR. BALAREZO: Objection, 602.

13 THE COURT: Sustained.

14 BY MR. ROBOTTI:

15 Q So how long before you first observed this tanker car was  
16 it taken?

17 A Eleven days on the first date, and approximately a month  
18 on the second time I saw this car.

19 Q And what do you notice at either end of the image here  
20 (indicating)?

21 A So on either end are very dark-colored anomalies  
22 (indicating) that are --

23 MR. BALAREZO: Objection.

24 THE COURT: Overruled.

25 MR. BALAREZO: Can we?



DeMayo - direct - Robotti

2409

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Sure.

(Continued on the following page.)

Sidebar

2410

1 (The following sidebar held outside the hearing of  
2 the jury.)

3 MR. BALAREZO: It may be nothing, it's a 602  
4 objection.

5 This witness can look at the screen and say he sees  
6 dark things at the end, but I don't think he can testify  
7 either as an expert or any other without going into hearsay  
8 about what was in there.

9 THE COURT: I don't think he's testifying as an  
10 expert. He's, basically, an experienced investigator and he's  
11 drawing the normal conclusions that he is helping the jury  
12 interpret that document. That's not --

13 MR. BALAREZO: But there needs to be a foundation  
14 laid. I don't know if this is the first VACIS scan that he's  
15 seen. All he can say he said it's dark at the end.

16 I don't know, does he have any experience with  
17 respect to how a normal tank looks when it's scanned?

18 MR. ROBOTTI: Your Honor, I can elicit that he's  
19 reviewed these in the course of his investigation and is  
20 familiar with the VACIS images based on his training and  
21 experience.

22 THE COURT: Do you want it on the record?

23 MR. BALAREZO: I think they need to do it the right  
24 way.

25 THE COURT: Go ahead, do it.

SAM

OCR

RMR

CRR

RPR

Sidebar

2411

1

MR. ROBOTTI: Sure.

2

3

(Sidebar concluded.)

4

5

(Continued on the following page.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

SAM

OCR

RMR

CRR

RPR

DeMayo - direct - Robotti

2412

1 (In open court - jury present.)

2 EXAMINATION CONTINUING

3 BY MR. ROBOTTI:

4 Q Special Agent DeMayo, have you seen VACIS images before?

5 A Yes.

6 Q And have you reviewed VACIS images during the course of  
7 your investigation?

8 A Yes, this -- this investigation and others.

9 Q And based on your training and experience, are you  
10 familiar with VACIS images?

11 A Yes, I'm not an expert in it, but I'm familiar with them.

12 Q All right. So looking at Government Exhibit 216-36, what  
13 do we see at either end of the image here in the center?

14 (Exhibit published.)

15 A On either end there is very dark-shaded end caps, meaning  
16 the two round ends of the tanker car.

17 Q Now, I would like to compare this image to Government  
18 Exhibit 216-41.

19 (Exhibit published.)

20 Q Now, how does this image compare to the image we just  
21 looked at?

22 A This tanker car does not have those dark-shaded end caps.

23 Q Now, looking back at 216-36, did you obtain this image  
24 before or after you saw this tanker car on January 28th, 2003  
25 at the Queens warehouse?

DeMayo - direct - Robotti

2413

1 A After.

2 Q And did you obtain this image before or after you saw the  
3 tanker car during your search on January 10th, 2003?

4 A After.

5 Q Now, based on the image of this tanker car in Government  
6 Exhibit 216-36, what did you determine with respect to your  
7 search of this tanker car on January 10th, 2003?

8 A That we failed to find approximately 2,000 kilograms of  
9 cocaine --

10 MR. BALAREZO: Objection.

11 THE COURT: Overruled.

12 A -- secreted within those two end caps as depicted in this  
13 VACIS image.

14 Q Now, what, if anything, did you do immediately following  
15 your search at the Queens warehouse?

16 A Information from the search at the warehouse identified  
17 that there had been other tanker cars recently removed from  
18 the Grand Avenue location. We requested -- as those cars were  
19 still in the New York area, we requested those cars be brought  
20 back so that we could inspect them.

21 Q And did you search those tanker cars?

22 A Yes.

23 Q And what did you find?

24 A We found evidence of the fact that prior secret  
25 compartments had been built inside each of the end caps of all

DeMayo - direct - Robotti

2414

1 four of those cars.

2 Q All right, so I would next like to look at Government  
3 Exhibits 216-11 through 216-17 for identification.

4 Do you recognize these?

5 (Exhibits published.)

6 A I do.

7 Q What are they?

8 A These are photographs taken of the search of those four  
9 tanker cars.

10 MR. ROBOTTI: All right, the Government offers  
11 216-11 to 216-17 into evidence.

12 MR. BALAREZO: No objection.

13 THE COURT: Received.

14 (Government's Exhibits 216-11 to 216-17 were  
15 received in evidence.)

16 BY MR. ROBOTTI:

17 Q So, first looking at Government Exhibit 216-11, what do  
18 we see here?

19 (Exhibit published.)

20 A It's a photograph taken of the tanker car bearing number  
21 PTLX 223452.

22 Q And looking at 216-12, what do we see here?

23 (Exhibit published.)

24 A It's a photograph of tanker NATX -- the leading zero is  
25 not there, but it's 077112.

DeMayo - direct - Robotti

2415

1 Q And next 216-13.

2 (Exhibit published.)

3 A NATX 77115.

4 Q And 216-14?

5 (Exhibit published.)

6 A NATX 77104.

7 Q And those last four photographs, these are all tanker  
8 cars, right?

9 A Correct.

10 Q Looking at 216-15.

11 What do we see here?

12 (Exhibit published.)

13 A At the -- basically, the dead center of this photograph  
14 (indicating), there are four distinct circles or weld marks  
15 that form the shape of a diamond or a square, depending on how  
16 you look at it. That square or diamond is located, basically,  
17 dead center in the middle of the interior ends of the railroad  
18 tanker car.

19 Q Okay. And then looking at 216-17. What do we see in  
20 this photograph?

21 (Exhibit published.)

22 A This is a photograph of the interior of one of the cars.  
23 From the sort of red-shaded area (indicating), it's what I  
24 call abrasions or evidence of weld marks or damage. I'm not  
25 sure quite how to describe it, but definitely something that

DeMayo - direct - Robotti

2416

1 was causing irritation to that area.

2 Q And looking at 216-16, this another photograph of those  
3 weld marks?

4 (Exhibit published.)

5 A Yes. This is basically -- this line that you see there  
6 is, basically, where the two part of the railroad tanker car  
7 is welded to the two rounded end caps during production. And  
8 then right in that area (indicating) are those kind of  
9 distinct deep red abrasions.

10 Q And did these marks go all the way around the end cap?

11 A Yes.

12 Q All right, so I would like to look at what's in evidence  
13 as Government's Exhibit 216-38 to 216-40.

14 Let's start with 216-38.

15 (Exhibit published.)

16 BY MR. ROBOTTI:

17 Q Do you recognize this image?

18 A Yes.

19 Q And what is it?

20 A This is a VACIS or X-ray image of tanker car NATX 077115.

21 Q And was that one of the tanker cars you had pulled back  
22 to the Queens warehouse?

23 A Yes.

24 Q And what's the date of this image?

25 A This is located here (indicating), December 4th, 2002.



DeMayo - direct - Robotti

2417

1 Q And about how long before the search at the Queens  
2 warehouse was this image taken?

3 A Just under about 60 days or so, 50 -- 50-something days.

4 Q And do we see any anomalies in this image?

5 A Yes. Both end caps (indicating) have the dark-shaded  
6 areas.

7 Q All right, next looking at 216-39.

8 (Exhibit published.)

9 Q Do you recognize this image?

10 A Yes.

11 Q What is it?

12 A This is a VACIS image for tanker car NATX 077112.

13 Q And what's the date of this image?

14 A December 9th, 2002 (indicating).

15 Q About how long before the search at the Queens warehouse  
16 was this one taken?

17 A Again, give or take 50 days or so.

18 Q And do we see any anomalies there?

19 A Yes (indicating). The picture is a little bit truncated,  
20 but there are dark-shaded end caps on both sides.

21 Q And then next, looking at Government Exhibit 216-40 in  
22 evidence.

23 (Exhibit published.)

24 Q Do you recognize this?

25 A Yes.

DeMayo - direct - Robotti

2418

1 Q What's this?

2 A This is a VACIS image for tanker car NATX 077104.

3 Q And is that another one of the tanker cars that you  
4 searched at the Queens warehouse?

5 A Yes.

6 Q And what's the date of this image?

7 A September 4th, 2002 (indicating).

8 Q About how long before the search at Queens was this one  
9 taken?

10 A Four-plus months.

11 Q And do we see any anomalies here?

12 A Yes. Again, end caps are both dark (indicating) compared  
13 to the rest of the tanker.

14 Q And did you obtain these images before or after you  
15 searched these tanker cars?

16 A After.

17 Q All right, so let's look back at Government Exhibit 216-4  
18 for a moment.

19 (Exhibit published.)

20 Q And is this the stool and the metal fan that you  
21 described earlier?

22 A Yes.

23 Q Now, were you able to figure out how these metal pieces  
24 fit together to form these hidden compartments?

25 A Yes.

DeMayo - direct - Robotti

2419

1 Q All right, I would like to show you what's been marked as  
2 Government Exhibit 507-3 for identification -- 3A, 507-3A for  
3 identification.

4 Do you recognize this?

5 A I do.

6 Q And what's this?

7 A This is a demonstrative chart that was prepared from  
8 various documents in the case.

9 Q And these sketches in the center of the chart here  
10 (indicating), what are they?

11 A They are, basically, depictions of the top half of a  
12 typical railroad tanker car used in the vegetable oil  
13 transportation. And on the bottom is, basically, a depiction  
14 of how the secured compartments were constructed.

15 Q Are these sketches fair and accurate depictions of the  
16 tanker car's hidden compartments that you observed?

17 A They are.

18 MR. ROBOTTI: Government offers Government  
19 Exhibit 507-3A, as well as 507-3, which is a demonstrative  
20 board, into evidence.

21 MR. BALAREZO: Which one is 3?

22 MR. ROBOTTI: It's an identical copy, just in board  
23 size.

24 MR. BALAREZO: No objection.

25 MR. ROBOTTI: Your Honor, if we could have Special

DeMayo - direct - Robotti

2420

1 Agent DeMayo step down and walk the jury through the board.

2 THE COURT: Yes.

3 (Witness steps down.)

4 (Government's Exhibits 507-3 and 507-3A were  
5 received in evidence.)

6 BY MR. ROBOTTI:

7 Q So why don't you start with the photos on the outer  
8 corners and tell us what we see there?

9 A Sure. So on the upper-right corner is a photograph taken  
10 of the two tanker cars that I discovered at the 7 Turner  
11 Place, Piscataway warehouse search warrant on December 7th,  
12 2002.

13 On the upper-left corner is a picture of tanker GATX  
14 124006, which entered the United States on December 30th,  
15 2002, was searched by myself and others on January 10th, 2003,  
16 and then, ultimately, discovered at the warehouse in Maspeth,  
17 Queens, 51-18 Grand Avenue, on January 28th, 2003.

18 At the bottom is the VACIS image of this tanker car  
19 upon its entry into the United States, December 30th, 2002.  
20 And, as is indicated, there are the dark-shaded end caps on  
21 the tanker car.

22 And on the lower-right is GATX 124148, which entered  
23 the United States on February 13th, 2003. That tanker car was  
24 examined thoroughly with negative results, and as indicated by  
25 the VACIS image, there are no dark-shaded end caps on that

DeMayo - direct - Robotti

2421

1 one.

2 Q Now, let me direct your attention to the sketch in the  
3 top center.

4 Could you walk us through what we see there?

5 A Okay. So on the upper-right is, basically, the top hatch  
6 area, which I've -- test. Am I out?

7 THE COURT: I hear it.

8 THE WITNESS: Okay.

9 A The top hatch area, which I've described a couple times  
10 as being the entry point from the top of the tanker car into  
11 the interior.

12 This picture here (indicating) is just basically a  
13 depiction of what a typical tanker car looks like that's used  
14 for that type of commodity, in the vegetable oil business.

15 And then this is (indicating) just a picture of the  
16 long view of the tanker car.

17 Q And what is the point of entry in the tanker car?

18 A The top hatch is here (indicating). There is a ladder  
19 that allows you to go up and down. Located dead center is the  
20 bottom valve, which allows for draining of the contents.

21 Q All right, let me direct your attention to the sketch on  
22 the bottom left.

23 What do we see there?

24 A So this is, basically, a side view of a tanker car. As I  
25 had mentioned earlier, there is a metal stool on the bottom

DeMayo - direct - Robotti

2422

1 one. It's a large circular shape, and on the other end is a  
2 smaller circular shape. And then, along this line here  
3 (indicating), that line would be comprised of those fan-shaped  
4 wedges that when attached together would form a new wall  
5 inside the tanker car.

6 Q All right, and let's look at the sketch on the bottom  
7 right.

8 What do we see there?

9 A Okay. So, again, here is the dead center (indicating).  
10 I mentioned we found weld marks in the diamond shape;  
11 basically, that that was the weld or tack point for the small  
12 circular end of the stool. And then the large circular end  
13 where these fan-shaped wedges would be attached to, forming a  
14 new wall.

15 Q So just flipping back briefly to Government  
16 Exhibit 216-4.

17 (Exhibit published.)

18 BY MR. ROBOTTI:

19 Q This is the stool and the metal fan depicted in those  
20 bottom two sketches?

21 A Correct.

22 Q And about how many of these metal fans did you find at  
23 the warehouse?

24 A Numerous. There were -- as depicted in at least one of  
25 those photos, there were stacks of them. Dozens, I would say.

DeMayo - direct - Robotti

2423

1 Q And about how many of those metal stools did you find at  
2 the warehouse?

3 A We found eight. Eight.

4 Q And how many stools are there per hidden compartment?

5 A There would be one for each end of the tanker car, so two  
6 per tanker car.

7 Q And so eight stools would be eight hidden compartments?

8 A Eight stools would be four trains, and eight  
9 compartments, correct.

10 Q All right, you can step back to the witness stand.

11 A Thank you.

12 Q Now, I'd next like to show you Government Exhibit 216-18  
13 for identification.

14 MR. ROBOTTI: Excuse me.

15 BY MR. ROBOTTI:

16 Q 216-18 for identification. Do you recognize this  
17 document?

18 A Yes.

19 Q And what's this?

20 A This is a utility bill that was found during the search  
21 warrant at the 51-18 Grand Avenue search warrant.

22 MR. ROBOTTI: Your Honor, the Government offers  
23 Government Exhibit 216-18 into evidence.

24 MR. BALAREZO: No objection.

25 THE COURT: Received.

DeMayo - direct - Robotti

2424

1 (Government's Exhibit 216-18 was received in  
2 evidence.)

3 BY MR. ROBOTTI:

4 Q So this is the document you found at the Queens  
5 warehouse?

6 A Correct, one of them.

7 Q I would like to look at page 2 of this document.

8 And what do we see on page 2 here?

9 (Exhibit published.)

10 A We see the company name and address that was receiving  
11 (indicating) that service. Del Sol, D-E-L, S-O-L, Soybean  
12 Oil.

13 Q And what's the address?

14 A 4775 Weitz Road, it's W-E-I-T-Z, in Morris, Illinois.

15 Q And what investigative steps did you take with respect to  
16 this warehouse, this address, once you discovered this utility  
17 bill?

18 A Myself and my DEA counterparts immediately contacted our  
19 offices in Chicago and advised them that we located this  
20 utility bill at the location where approximately  
21 2,000 kilograms of cocaine had been seized. Given the fact  
22 that the company had the soybean oil in its name, that was a  
23 clue, so we sent that on.

24 Q Okay. And what did you do next?

25 A We wanted to then determine what other railroad tanker



DeMayo - direct - Robotti

2425

1 cars may have transited any of the places that we had  
2 identified so far. And we reached out to various railroad  
3 entities, as well as the companies that provide vegetable or  
4 soybean oil, to gather additional records.

5 Q And among these records you gathered, did you obtain the  
6 purchase contract for this location?

7 A Yes.

8 Q And did you obtain any other types of contracts?

9 A Yes.

10 Q And what types of contracts were those?

11 A We -- again, lease records, purchase records for  
12 warehouses, and then lease records for railroad tanker cars.

13 Q All right, so let's talk about on some of these leases  
14 and contracts.

15 I would like to show you what's been marked as  
16 Government Exhibit 403-1 to 403-3 and 403-7 to 403-9.

17 MR. BALAREZO: No objection with this one.

18 THE COURT: All right, received.

19 (Government's Exhibits 403-1 to 403-3 and 403-7 to  
20 403-9 were received in evidence.)

21 (Exhibit published.)

22 BY MR. ROBOTTI:

23 Q All right. So 403-1 to 403-3 and 403-7 to 403-9, are  
24 those some of the contract records that you obtained?

25 A Yes.

DeMayo - direct - Robotti

2426

1 Q Now, I'd like to show you what's been marked for  
2 identification as Government Exhibit 216-42.

3 And do you recognize this?

4 (Exhibit published.)

5 A Yes, I do.

6 Q And what's this?

7 A This is a spreadsheet that was turned into a chart that  
8 is, basically, a summary of different data points taken from  
9 the leases.

10 Q And, in particular, is this chart a summary of  
11 information contained in the certified leases entered into  
12 evidence today as Government Exhibit 403-1 to 403-9?

13 A Yes.

14 MR. ROBOTTI: Your Honor, the Government offers  
15 Government Exhibit 216-42 into evidence.

16 MR. BALAREZO: Is it a demonstrative or a straight?

17 THE COURT: It's a summary. It's substantive  
18 evidence.

19 MR. BALAREZO: No objection.

20 THE COURT: Received.

21 (Government's Exhibit 216-42 was received in  
22 evidence.)

23 (Exhibit published.)

24 BY MR. ROBOTTI:

25 Q Now, could you walk us through the categories of

DeMayo - direct - Robotti

2427

1 information that we see in this chart?

2 A Gladly. So the first column is, obviously, just the  
3 number. The second column is the company name that was  
4 affiliated with the contract or the purchase. The next column  
5 is the address or entity associated with that contract,  
6 meaning the railroad tanker car company or the warehouse  
7 location. And then contract date is the date that the  
8 contract was executed. And contract signatory is, basically,  
9 the person who signed the contract.

10 Q All right. So we've already spoken about a couple of  
11 these addresses today, but let's just briefly remind the jury  
12 what they are.

13 So, first looking at line 3, 7 Turner Place, what's  
14 that address?

15 A So that's the search warrant location from December 7th,  
16 2002, where we located the two railroad tanker cars on the  
17 rear of the warehouse, and located those three pickup trucks  
18 that had the false compartments and we found other evidence  
19 inside the warehouse.

20 Q Okay, line 6, 4775 North Weitz Road, what's that one?

21 A That is the warehouse located in Morris, Illinois, that  
22 was identified through that utility bill that was recovered  
23 during the search warrant at the 51-18 Grand Avenue location  
24 where the 2,000 kilograms were seized.

25 Q All right, line 7, 51-18 Grand Avenue?

SAM

OCR

RMR

CRR

RPR

DeMayo - direct - Robotti

2428

1 A That is the location of the warrant where the cocaine was  
2 seized on the 28th of January 2003.

3 Q Line 8, 15 Green Street.

4 A 15 Green Street is the warehouse that was connected to  
5 the 500-kilogram seizure in Deer Park, Long Island, on  
6 November 14th, 2000.

7 Q And line 9, 275 Veterans Boulevard?

8 A That's a warehouse that was identified through real  
9 estate records as being leased by Joseph Silva. That  
10 warehouse was found to contain a railroad spur on the rear of  
11 the warehouse.

12 Q All right. So, let's walk through why you obtained the  
13 remaining leases and contracts on this chart.

14 So let's start with line 1, which is a lease for  
15 Union Tanker Car Company. Why did you get that?

16 A During the execution of the Piscataway search warrant, we  
17 located invoices during the warrant that indicated the lease  
18 of tanker cars from Union Tank Car.

19 Q Okay. And line 2, 400 Third Avenue in Brooklyn, New  
20 York, why did you obtain that lease?

21 A That lease was obtained because Manuel Silva, who was an  
22 alias for Jose Gudino, leased the warehouse. That warehouse  
23 had about 1900 kilograms seized from it on May 23rd, 2002.

24 Q And just looking back at the Government Exhibit 206-1 in  
25 evidence, do you recognize this?

SAM

OCR

RMR

CRR

RPR

DeMayo - direct - Robotti

2429

1 (Exhibit published.)

2 A I do.

3 Q What is that?

4 A That's the warehouse at 400 Third Avenue in Brooklyn  
5 New York, the site of an almost 2,000 kilogram seizure on  
6 May 23rd, 2002.

7 Q All right. And then, looking at line 4, 1277 Naperville  
8 Drive, Romeoville, Illinois, why did you obtain that lease?

9 A That was the location of another large scale cocaine  
10 seizure, again, between 1900 and 2,000 kilograms, on  
11 August 16th, 2002. That was leased using the Manuel Silva.

12 Q And then looking at line 5, which is for G.E. Railcar  
13 Services Co., why did you obtain that lease?

14 A When we examined those four tanker cars following the  
15 seizure at the Grand Avenue search warrant, we determined that  
16 those tanker cars had been leased from G.E. Railcar.

17 Q All right, so the leases on line 1 and 5 are for what  
18 type of property?

19 A Those are tanker car leases.

20 Q And the remaining leases are for what type of property?

21 A Warehouses.

22

23

24 (Continued on the following page.)

25

DeMayo - direct - Robotti

2430

1 DIRECT EXAMINATION

2 BY MR. ROBOTTI:

3 Q Now, based on your review of the information of the  
4 leases, what, if anything, did you notice about the company  
5 names listed in the second column here?

6 A They obviously have some commonalities to them, first is  
7 Azteca, or a derivation of Azteca, was used on multiple  
8 occasions, four times, Aztec Leather, Azteca Leather, or  
9 Azteca Import/Export.

10 Q Looking at lines six and seven, what, if anything, did  
11 you notice about that those?

12 A The company name contains words soybean oil.

13 Q Looking at eight and nine, what did you notice about  
14 those?

15 A They're basically a variation of Sunshine State  
16 Enterprises.

17 Q And next looking to the contract signatory column at the  
18 very end here, what did you notice about those names?

19 A With the exception of one of them, we have a last name of  
20 Silva, first name could be Manuel or Joseph.

21 Q And those are names listed on all these contracts except  
22 for one?

23 A Correct.

24 Q And what were the years during which these contracts were  
25 signed looking at the contract date column?

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2431

1 A 1999 through 2002.

2 Q I'd like to look briefly through a couple of these lease  
3 documents. Let's first look at 403-5. Now, this is a lease  
4 for what location? I'm sorry, we are looking at 403-3, excuse  
5 me.

6 All right. So this is a lease for what  
7 approximately?

8 A This is the lease for the 51-18 Grand Avenue location.

9 Q All right. And let's look at page 328658. What's the  
10 rent for the first three years or so for this location?

11 A 130,000, 134,000 and change, and 138,000.

12 Q Okay. And what years were those?

13 A That would be 2001 through 2003.

14 Q And then let's look at Government Exhibit 403-8. What  
15 company is this the lease for, or what location is this lease  
16 for?

17 A This is regarding 4775 North Weitz Road in Morris,  
18 Illinois.

19 Q Is this a lease or is this a commercial real estate  
20 contract?

21 A This was a purchase, a purchase.

22 Q Now looking at page 328750, what's the selling price  
23 listed here.

24 A \$380,000 and the loan amount indicates cash.

25 Q Who was the buyer?

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2432

1 A Manuel Silva.

2 Q All right. Now, let's look at the leases for a couple of  
3 these tanker cars. This is 403-1, which was the lease listed  
4 in line 1 of our chart here for Union Tanker Car Company, the  
5 chart 216-42. So directing your attention to page 328582, who  
6 is the lessee here?

7 A Azteca Import/Export Company.

8 Q And this is signed by whom?

9 A Manuel Silva, Senior VP.

10 Q And then going to 238584, what is this document?

11 A This document basically lists the tanker cars that were  
12 subject to that lease.

13 Q And looking about the third or fourth line down, what's  
14 the commodity listed?

15 A Vegetable oil.

16 THE COURT: Mr. Robotti, how are you doing on time?

17 MR. ROBOTTI: We have about another hour left. If  
18 you would like to take a break, now would be a good time.

19 THE COURT: Ladies and gentleman, we will take our  
20 morning break until 11:15. Please remember not to talk about  
21 the case.

22 (Jury exits the courtroom.)

23 THE COURT: Everyone be seated. Since the witness  
24 is still here, I'm sure he is going to be on his way out, let  
25 me see counsel at sidebar for a second. (Continued next page.)



Sidebar

2433

1 (The following occurred at sidebar.)

2 THE COURT: It may be too late to do anything for  
3 this witness, but you got to pick it up, okay? This is  
4 painfully slow.

5 MR. ROBOTTI: Okay.

6 THE COURT: It doesn't have to be. You don't need  
7 to use every picture. You don't need to have him read the  
8 documents the jury is looking at: "Do you see where it says  
9 Manuel Silva?" You know, so far we have used twice as much as  
10 time to make the point you wanted to. You planned with this  
11 witness. It may be too late to do anything. For future  
12 witnesses, let's keep it moving.

13 MR. ROBOTTI: I understand, Judge. This is a  
14 witness going through thousands and thousands pages of record.  
15 As you will see, at the back, we have summarized all of this.  
16 There are dozens of train records and this is also a  
17 significant smuggling route that resulted in 60 train  
18 shipments to the United States from the defendant. We are  
19 trying to walk through and explain to the jury how it works.

20 THE COURT: I'm not saying it isn't important. I'm  
21 saying there is a crisper way of doing it I think.

22 MR. ROBOTTI: Understood, Judge. Thank you.

23 (Sidebar ends.)

24 (Continued on the next page.)

25

DeMayo - direct - Robotti

2434

1 (Recess taken.)

2 (In open court.)

3 THE COURT: Let's have the jury back, please.

4 (Jury enters the courtroom.)

5 THE COURT: Be seated. Let's continue, Mr. Robotti.

6 MR. ROBOTTI: Thank you, Judge.

7 BY MR. ROBOTTI:

8 Q So when we left off we were talking about Government  
9 Exhibit 403-1, which was the lease from Union Tanker Car  
10 Company. I'd like to show you a couple of checks in these  
11 documents here.

12 THE COURT: Is this in evidence?

13 MR. ROBOTTI: This is in evidence.

14 Q 328593, and this is a check from Azteca Imports  
15 Enterprises; correct?

16 A Yes.

17 Q To Union Tanker Car Company?

18 A Yes.

19 Q And who signed this check?

20 A Jose Gudino.

21 Q And looking to 328595, there is another check here, also  
22 from Azteca Import Enterprises?

23 A Yes.

24 Q To Union Tanker Car Company?

25 A Yes.

DeMayo - direct - Robotti

2435

1 Q Who signed that one?

2 A Jose Gudino.

3 Q And the following page, 328596, and is this another check  
4 also signed by Jose Gudino?

5 A Yes.

6 Q And just looking back at Government Exhibit 57, is this  
7 the person you've identified as Jose Gudino, also known as  
8 Manuel Silva and Joseph Silva?

9 A Correct.

10 Q All right. I want to take a quick look at one more of  
11 the leases in Government Exhibit 216-42 here. We will look at  
12 the lease for GE Railcar Services on line five. Before we do  
13 that, Government Exhibit 32, is this the person you've  
14 identified as Juan Bugarin?

15 A Yes.

16 Q Let's look at the lease from line five there, which is  
17 Government Exhibit 403-2, and directing your attention to page  
18 328603, who signed this?

19 A Juan Bugar, B-U-G-A-R.

20 Q And what's the date of this lease agreement?

21 A April 5, 1999, also has April 9, 1999.

22 Q Look at 328605, is this a renewal lease document?

23 A Yes.

24 Q And also signed by Juan Bugar?

25 A Correct.

DeMayo - direct - Robotti

2436

1 Q What's the name of the company?

2 A Bugar Trading, Inc.

3 Q And 328606, what's the name of the commodity listed here?

4 A Soybean oil, crude, or refined EXC, edible cooking oils,  
5 vegetable oil, fat free.

6 Q And 328607, what do we see on this page here?

7 A These are six railroad tanker cars and they are  
8 identifying numbers as part of the lease.

9 Q So these were the cars that were leased?

10 A Yes. There.

11 Q These last four cars here, what did you notice about  
12 those?

13 A Those are the cars that we had searched and found the  
14 weld bonds on the inside of the tanker cars following the  
15 Queens seizure.

16 Q And 328617, this is another check here, who's this check  
17 from?

18 A Bugar Trading, Inc. and the address is 1330 Philadelphia  
19 Street in Pomona, California.

20 Q Now, in part based on these checks, did this Pomona  
21 warehouse become a subject of your investigation?

22 A Yes, it did.

23 Q All right. I'd like to show you Government Exhibit  
24 216-30 and 216-31. Do you recognize these?

25 A Yes.

DeMayo - direct - Robotti

2437

1 Q What are they?

2 A These are photographs I took of the warehouse at -- in  
3 Pomona, California.

4 MR. ROBOTTI: The Government offers 216-30 and  
5 216-31 into evidence.

6 MR. BALAREZO: No objection.

7 THE COURT: Received.

8 (Government's Exhibits 216-30 and 216-31 received in  
9 evidence.)

10 Q What do we see in this first photograph?

11 A A picture of the Pomona warehouse, wanted to notate the  
12 street address, 1330.

13 Q And the 216-31?

14 A This is a picture of another side of the warehouse.

15 Q And was there a train spur located at this warehouse?

16 A Yes. My screen isn't writing.

17 Q Mine is not either.

18 THE COURT: I think you might have documents up  
19 against it.

20 MR. ROBOTTI: Try again. There we go.

21 Q Is this the location you are referring to of the train  
22 spur?

23 A Yes. There's a train spur track right there and then  
24 there's that sort of a shed area there that abuts the  
25 warehouse.

DeMayo - direct - Robotti

2438

1 Q Looking back at 216-42, how many of these locations had  
2 train spurs?

3 A Five.

4 Q And which locations were those?

5 A So from top to bottom, number three, 7 Turner Place;  
6 number five, which is 1330 Philadelphia Street Pomona; number  
7 six, North Weitz Road in Morris, Illinois; number seven, 51-18  
8 Grand Avenue, Queens; and number nine, 275 Veterans Boulevard,  
9 Rutherford, New Jersey.

10 Q Once you identified the addresses here with train spurs,  
11 what were you able to do next?

12 A Looked into any train cars that had transited any of  
13 those locations.

14 Q And what, if anything, did you obtain with respect to  
15 those locations?

16 A We obtained a lot of train records from different  
17 companies.

18 Q For how many of those five warehouses with spurs were you  
19 able to obtain train records?

20 A All but one.

21 Q What was the one you couldn't obtain train records for?

22 A 275 Veterans Boulevard, Rutherford, New Jersey.

23 MR. ROBOTTI: Your Honor, I'd like to approach the  
24 witness with some documents.

25 THE COURT: Go ahead.

DeMayo - direct - Robotti

2439

1 BY MR. ROBOTTI:

2 Q Marked as Government Exhibit 401-2 to 401-10B for  
3 identification. Just take a moment and look through those.

4 Do you recognize these?

5 A I do.

6 Q What are they?

7 A These are certified copies of train records that I  
8 obtained during the course of my investigation.

9 Q And are those train records all related to the  
10 warehouses, the four warehouses with spurs we just discussed?

11 A Yes.

12 Q And particularly, are these certified records from Union  
13 Pacific Railroad, New York Atlantic Railroad Company, Conrail,  
14 and Archer Daniel Midland Company?

15 A Yes.

16 MR. ROBOTTI: Your Honor, the Government offers  
17 Government Exhibits 401-2 to 401-10-B into evidence.

18 MR. BALAREZO: Your Honor, if I could have one  
19 second. I'm quickly looking at them.

20 No objection.

21 THE COURT: Received.

22 (Government's Exhibits 401-2 to 401-10-B received in  
23 evidence.)

24 Q Now, I'd like to show you what has been marked for  
25 identification as Government Exhibit 216-43 to 216-46. Do you

DeMayo - direct - Robotti

2440

1 recognize each of those documents?

2 A Yes, I do.

3 Q What are those documents?

4 A These are spreadsheets which I compiled based on the  
5 documents in these certified records.

6 Q And in particular, are these summary charts of the  
7 information contained in Government Exhibit 401-2 to 401-10-B,  
8 as well as the information contained in Government Exhibit  
9 403-2?

10 A Yes.

11 THE COURT: Your Honor, the Government offers 216-43  
12 to 216-46 into evidence.

13 MR. BALAREZO: No objection.

14 THE COURT: Received.

15 (Government's Exhibit 216-43 to 216-46 received in  
16 evidence.)

17 Q So first looking at Government Exhibit 216-46, what is  
18 this document?

19 A This is a summary of train cars identified during the  
20 course of the investigation and their movements both  
21 northbound and southbound, meaning into the United States or  
22 leaving the United States.

23 Q And you'll see there's different shaded areas here in  
24 orange and gray and alternating going forward. What does that  
25 signify?



DeMayo - direct - Robotti

2441

1 A When the color changes from orange to gray, it basically  
2 signifies that a different train car being discussed.

3 Q So for instance, looking at the first line here, the  
4 first three lines are three different tanker car shipments for  
5 tanker car ending 7186?

6 A Correct.

7 Q Now, I'd like to walk through some of the information on  
8 this chart, taking row 51 as an example and this is the  
9 highlighted row down here, could you walk us through what  
10 information is contained in each of those rows?

11 I am going to zoom in so we can make this a little  
12 bit bigger.

13 Okay, let's start with the far left column entitled  
14 tanker car number. What is in row 51?

15 A So row 51 lists the tanker car number, GATX 124140.

16 Q And then looking at the column entitled direction, what's  
17 listed there?

18 A NB stands for northbound, SB would be southbound.

19 Q The column entitled originating location, what's listed  
20 here?

21 A Mexico City, Mexico.

22 Q And what does that mean?

23 A That's where the train records indicate the journey of  
24 that tanker car in that particular cycle begins its trip.

25 Q Looking at the column entitled approximate departure

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2442

1 date, what's that?

2 A That's the date that the train departed Mexico City, in  
3 this case, 12/17/2001.

4 Q Now, looking next at THE border location, what does that  
5 mean?

6 A That's indicated by the records where the train entered  
7 the United States, what the port of entry was, where it came  
8 in.

9 Q And THE approximate date, what was the border location  
10 for this one?

11 A Laredo, Texas. And the next column is December 31, 2001.  
12 That's the date it crossed into the United States.

13 Q And destination location is the next column. What do we  
14 see there?

15 A So that's the warehouse location where the train was  
16 destined to. In this case Azteca Import/Export, 7 Turner  
17 Place, Piscataway, New Jersey.

18 Q Next column is approximate date arrived at that location?

19 A That indicates the date that the records indicate that  
20 the car was provided to the warehouse.

21 Q And this next column is entitled VACIS image. What does  
22 that mean?

23 A So, yes indicates that there was an image obtained for  
24 that tanker car upon its entry in the U.S. and in the  
25 parenthesis is the date that the VACIS was taken.

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2443

1 Q Next column is shipper.

2 A Okay. According to the records, who the shipper was. In  
3 this case, it is APL/Mac forwarders in Laredo, Texas.

4 Q The next column is commodity. What's that?

5 A That is a description of what was inside the car as per  
6 the records, in this case, vegetable oil residue or empty.

7 Q We have next consignee. What's that?

8 A That's the ultimate recipient of the car, Azteca  
9 Import/Export, 7 Turner Place, Piscataway.

10 Q Tanker car, lessee or lessor?

11 A If we knew the lessee or lessor for that car, it would be  
12 there. In this case, it was not.

13 Q And finally, we have searched, what does that indicate?

14 A That is a notation as to whether or not we were able to  
15 search that car, and if we did, we would say yes, and then it  
16 would have the date of the search.

17 Q So looking back at Government Exhibit 216-20, is this the  
18 tanker car to which line 51 related?

19 A Yes.

20 Q And where did you see that tanker car?

21 A Search warrant 7 Turner Place, Piscataway, New Jersey.

22 Q And the chart indicated that there was a VACIS image for  
23 that. I'd like you to look at Government Exhibit 216-37 in  
24 evidence. Do you recognize this?

25 A Yes.

DeMayo - direct - Robotti

2444

1 Q What's that?

2 A This is the VACIS image for that train car upon entry  
3 into the U.S.

4 Q What date was this image taken?

5 A December 31, 2001.

6 Q And are there anomalies in this tanker car?

7 A Yes, here and here.

8 Q And how long before you saw this car at the warehouse at  
9 7 Turner Place was this image taken?

10 A About 11 months.

11 Q So looking back at Government Exhibit 216-46, is it fair  
12 to say that line 51 here showed all the pertinent information  
13 that you had related to the tanker car that took this trip to  
14 Piscataway, New Jersey?

15 A Yes.

16 Q All right, so let's talk about what in general we saw in  
17 this chart here. What did you notice about the originating  
18 locations for the northbound trains?

19 A Generally, it was either Brownsville, Texas, Laredo,  
20 Texas, or Republic of Mexico.

21 Q For the trains that started in Texas, were you able to  
22 ascertain any additional information about those?

23 A Yes.

24 Q How so?

25 A There were records in the, the records indicated that

DeMayo - direct - Robotti

2445

1 although for certain times the train car started in Laredo or  
2 Brownsville, Texas, there is additional records that indicate  
3 where that car was prior to that entry into the United States  
4 and this would be Mexico.

5 Q So prior to the northbound train starting in Texas, was  
6 there a previous southbound entry showing it entering Mexico?

7 A Yes.

8 Q In general, what did you notice about the border crossing  
9 locations for these northbound trains?

10 A There were two: Laredo, Texas and Brownsville, Texas.

11 Q And how many total northbound and southbound train  
12 shipments did you identify associated to the four warehouses  
13 with spurs that we've previously saw today?

14 A 108.

15 Q So there were a total 108 tanker car shipments to those  
16 warehouses, to and from those warehouses?

17 A Yes.

18 Q With respect to the commodity, what did you in general  
19 notice about the commodity for these northbound and southbound  
20 trains?

21 A Generally it centered around, for the northbound trains,  
22 a residue notation or empty. And for the times that the cars  
23 were southbound into Mexico, it generally involved vegetable  
24 oil, crude corn oil, you know, that type of product.

25 Q Now, looking at Government Exhibit 216-44, which is in

DeMayo - direct - Robotti

2446

1 evidence. What is this document?

2 A This document depicts just the northbound train, so those  
3 that came into the United States that went to any one of the  
4 warehouses we mentioned.

5 Q And what was the total number of northbound shipments  
6 coming from Mexico to these four warehouse locations with  
7 spurs that you've identified?

8 A 60.

9 Q Next looking at Government Exhibit 216-43, what does this  
10 document show?

11 A This is a summary of the different trains that were  
12 identified as having transited the four warehouses with the  
13 railroad tracks.

14 Q And does this show all the different tanker cars that  
15 went to those warehouses?

16 A It does.

17 Q And let's take a look at line 2 as an example. Can you  
18 walk us through the information on this chart?

19 A Okay. So line 2 pertains to tanker car ACFX088907, and  
20 the train records indicate that on two occasions that car was  
21 delivered to Bugar Trading in Pomona, California.

22 On one occasion, it was delivered to the Del Sol  
23 Soybean Oil in Morris, Illinois. On one occasion it was  
24 delivered to Azteca Leather warehouse in Piscataway, New  
25 Jersey. And on one occasion it was delivered to the 4 Queens

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2447

1 Soybean Oil warehouse located in Maspeth, New York.

2 Q What about the total here?

3 A So total is the total number of times that car was  
4 delivered, you know, in its entirety to any of those  
5 warehouses.

6 Q So this one tanker car went to all four of those  
7 different warehouses?

8 A It did.

9 Q And how many different tanker cars did you identify going  
10 to these four warehouses with spurs in total?

11 A It was 22.

12 Q And how many of those tanker cars went to more than one  
13 of the warehouses?

14 A 11, or half. Half of them went to more than one  
15 warehouse.

16 Q During what years did these train cars go to these four  
17 warehouses?

18 A The time span between April of 1999 leading up to January  
19 2003, where we seized that 2,000 kilograms at the Queens  
20 warehouse.

21 Q Were all of these tanker cars used during the same time  
22 period or did the time period vary?

23 A It varied.

24 Q How so?

25 A The train would be delivered to the warehouse, excuse me.

MDL

RPR

CRR

CSR

DeMayo - direct - Robotti

2448

1 Sometimes it would be delivered to the warehouse and then not  
2 be used again. Sometimes it would be repeated and delivered  
3 to different warehouses. Sometimes the car was used in the  
4 middle of the time period. Sometimes it was used more towards  
5 the end.

6 (Continued on next page.)  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MDL

RPR

CRR

CSR



DeMayo - direct - Robotti

2449

1 EXAMINATION CONTINUES

2 BY MR. ROBOTTI:

3 Q Now I'd like to show you what's been marked for  
4 identification as Government Exhibit 507-2A.

5 Do you recognize this?

6 (Exhibit published.)

7 A I do.

8 Q And what's this?

9 A This is a summary chart based upon some of the data  
10 points we just discussed involving the 60 northbound trips for  
11 those trains.

12 Q And does this contain a summary of the information we  
13 just saw in the chart identified as Government Exhibit 216-43?

14 A Yes.

15 MR. ROBOTTI: Your Honor, the Government offers  
16 Government Exhibit 507-2A, as well as the demonstrative board  
17 507-2 into evidence.

18 MR. BALAREZO: No objection.

19 THE COURT: Received.

20 (Government's Exhibits 507-2 and 507-2A were  
21 received in evidence.)

22 Q And can we just put up the board and have you step down  
23 and walk the jury through it?

24 (Witness steps down.)

25 Q All right, so why don't we start with what we see out in

DeMayo - direct - Robotti

2450

1 Los Angeles and work our way to New York City.

2 A Okay. So the chart, basically, depicts that we have  
3 trains originating in Mexico City, entering at either the  
4 Laredo or the Brownsville ports of entry into the United  
5 States.

6 This location in Los Angeles pertains to the Pomona  
7 warehouse for Bugar Trading, and our records indicate that  
8 there were 16 deliveries of those cars, spanning the timeframe  
9 April 21st, 1999 through October 5th, 2001.

10 As we move easterly on the chart, Chicago depicts  
11 the Morris, Illinois warehouse. First, Del Sol Soybean Oil.  
12 The records indicate there were 22 train shipments delivered  
13 to that warehouse during the time span November -- excuse me,  
14 September 16th, 2001 to October 18th, 2002.

15 And then finally, moving further eastward, we see  
16 that there were 22 train shipments between September 17th,  
17 2001 and January 23rd, 2003.

18 Q And those 22 went to New York City?

19 A Yes.

20 Q All right. And let's have you step back up to the  
21 witness stand for a second and we will walk through a few more  
22 questions.

23 (Witness returns to the witness stand.)

24 Q Looking at Government Exhibit 216-45, which is in  
25 evidence. What does this chart depict here?

DeMayo - direct - Robotti

2451

1 (Exhibit published.)

2 A This chart depicts only those trains that were identified  
3 as going to either the Piscataway, New Jersey warehouse or the  
4 Queens warehouse for Four Queens Soybean Oil.

5 Q And so these were all destined to either New York City or  
6 New Jersey?

7 A Yeah, they were in our -- our neck of the woods.

8 Q All right, so looking at the column marked VACIS image,  
9 there are five cells highlighted here.

10 What do those depict?

11 A It indicates a yes, that there was a VACIS image  
12 available for that train car upon its entry into the U.S. and,  
13 again, the date that that image was taken.

14 Q And are these all the VACIS images that we have looked at  
15 today?

16 A Yes.

17 Q And what's the commodity listed for each of these five  
18 images?

19 A Empty or has an oil residue, vegetable oil residue.

20 Q And these images all showed anomalies; is that right?

21 A Yes.

22 Q Now, looking at the last column here, which is marked  
23 searched, there is various cells highlighted there.

24 What do those refer to?

25 A Once again, a yes indicates that there was a search

DeMayo - direct - Robotti

2452

1 conducted of that railroad tanker car and then the date that  
2 the car was searched.

3 Q And could you just remind us of the three searches we  
4 spoke about today?

5 A Okay. So the first one chronologically was at Piscataway  
6 on December 7th, 2002. The next one was on January 10th,  
7 2003, where we searched and failed to locate the cocaine in  
8 the tanker car GATX 124006. And the third search pertained to  
9 the search warrant at the Four Queens warehouse on  
10 January 28th, 2003, and then the follow-up of those four cars  
11 that had been recently removed from that warehouse.

12 Q All right, so I would like to show you for our final  
13 exhibit today 507-1A for identification.

14 And do you recognize this?

15 (Exhibit published.)

16 A I do.

17 Q What is it?

18 A A demonstrative chart indicating, with greater detail,  
19 warehouse locations in and around where we are now.

20 Q And are these locations that you spoke about during your  
21 testimony today?

22 A Yes.

23 MR. ROBOTTI: Your Honor, the Government offers  
24 Government Exhibit 507-1A and the demonstrative board 507-1  
25 into evidence.

SAM

OCR

RMR

CRR

RPR

DeMayo - direct - Robotti

2453

1 MR. BALAREZO: No objection.

2 THE COURT: Received.

3 (Government's Exhibits 507-1 and 507-1A were  
4 received in evidence.)

5 MR. ROBOTTI: All right, if I could have you step  
6 down for the final time today and just walk us through this.

7 (Witness steps down.)

8 BY MR. ROBOTTI:

9 Q Go ahead, you can begin with location A.

10 A Okay. So location A is the Azteca Leather Warehouse in  
11 Piscataway. We did a search warrant there; located two train  
12 cars. The records indicate that there were 11 deliveries of  
13 trains to that warehouse between 9/17/01 and 2/6/02.

14 Location B is the Veterans Boulevard in Rutherford,  
15 New Jersey warehouse, rented by Sunshine State Enterprises.  
16 That warehouse had a rail spur with it. There were no records  
17 of trains that we could find being delivered there.

18 Warehouse -- excuse me, letter number C is the  
19 Sunshine State Enterprise lease of 15 Green Street in  
20 Hackensack. That is the location that was affiliated with the  
21 500 kilograms of cocaine that was seized in Deer Park,  
22 November of 2000.

23 Moving on to letter D, that's an Azteca Leather  
24 leased warehouse at 400 Third Avenue in Brooklyn, New York.  
25 That's the location where on May 23rd, 2002, there was

SAM

OCR

RMR

CRR

RPR

DeMayo - cross - Balarezo

2454

1 approximately nineteen hundred-and-something kilograms of  
2 cocaine seized.

3 And then finally, the Four Queens Warehouse is  
4 depicted in number -- letter E, and that's the location of  
5 nineteen hundred ninety-seven kilograms of cocaine on  
6 January 28th, 2003.

7 Q And how many train shipments went there?

8 A We had 11 deliveries between May 16th of 2002 and the  
9 final one being seizure date -- the seizure train on  
10 1/23/2003.

11 MR. ROBOTTI: Thank you very much, Special Agent  
12 DeMayo. I have no further questions.

13 THE COURT: All right, any cross?

14 MR. BALAREZO: Very brief, Your Honor.

15 THE COURT: Okay.

16 CROSS-EXAMINATION

17 BY MR. BALAREZO:

18 Q Agent, you were a case agent from 2000 to 2006, correct?

19 A For the most part. I -- in 2005, was -- received a  
20 promotion, so I was not technically a case agent during 2005  
21 to 2006.

22 Q But, fine, you're very intimately familiar with the  
23 investigation is what I'm getting at?

24 A Yes.

25 Q Okay. And you, apparently, reviewed thousands of

DeMayo - cross - Balarezo

2455

1 documents it appears for all these charts and numbers that you  
2 were throwing out?

3 A Yes.

4 Q You got a lot of documents from the railroads, from  
5 leasing companies, real estate companies --

6 A Yes.

7 Q -- right?

8 You reviewed documents pertaining to the rentals of  
9 tankers, that kind of thing?

10 A Yes.

11 Q Okay. And now, am I correct in saying that nowhere in  
12 any of those thousands of pages of documents that you come up  
13 with the name of Joaquin Guzmán Loera?

14 A In the train records and the --

15 Q Train records, warehouse records?

16 A That's correct.

17 Q Okay. Now, also you mentioned that a lot of these trains  
18 came in through Brownsville or Laredo; is that correct?

19 A Yes.

20 Q Do you know what -- is it true that the Mexican area on  
21 the other side of the border is Tamaulipas?

22 A I'll take your word for it.

23 MR. BALAREZO: Well, do we have a map.

24 Q We don't have the map ready, but you are aware that  
25 during the time that you've been talking about, that period of

DeMayo - cross - Balarezo

2456

1 time, the Gulf Cartel controlled the area on the other side of  
2 Brownsville and Laredo?

3 MR. ROBOTTI: Objection.

4 THE COURT: Sustained.

5 BY MR. BALAREZO:

6 Q Did any of these trains -- I didn't notice that you had  
7 any of the trains originating in Sinaloa; is that correct?

8 A As per the records, most of them were in -- indicating  
9 going to or near Ecatepec, Mexico, which is somewhere outside  
10 of Mexico City.

11 Q Not Sinaloa or Culiacán?

12 A I did not see those references, no.

13 Q To your knowledge, were there any railroads in Culiacán  
14 or in Sinaloa?

15 A I don't know about those.

16 MR. BALAREZO: I have nothing further.

17 THE COURT: All right, any redirect?

18 MR. ROBOTTI: No, Your Honor.

19 THE COURT: All right, you may step down. Thank you  
20 very much.

21 (Witness excused.)

22 THE COURT: The Government's next witness.

23 MS. PARLOVECCHIO: The Government calls Robert  
24 Johnson.

25 (Pause.)



Proceedings

2457

1 (Witness enters the courtroom and takes the stand.)

2 THE COURTROOM DEPUTY: Please raise your right hand.

3 Do you solemnly swear or affirm that the testimony

4 you shall give to the Court will be the truth, the whole truth

5 and nothing but the truth?

6 THE WITNESS: I do.

7 (Witness sworn.)

8 THE COURTROOM DEPUTY: Please state and spell your

9 name for the record.

10 THE WITNESS: My name is Robert Johnson.

11 THE COURT: You don't have to spell it.

12 THE WITNESS: All right.

13 THE COURT: You may inquire.

14 MS. PARLOVECCHIO: Thank you, Your Honor.

15

16 (Continued on the following page.)

17

18

19

20

21

22

23

24

25

Johnson - direct - Parlovecchio

2458

1   **R O B E R T   J O H N S O N ,**

2           called as a witness by the Government, having been first  
3           duly sworn/affirmed by the Courtroom Deputy, was examined  
4           and testified under oath as follows:

5   DIRECT EXAMINATION

6   BY MS. PARLOVECCHIO:

7   Q     Good afternoon, Mr. Johnson.

8   A     Good afternoon.

9   Q     How are you employed?

10   A     I am a group supervisor with the Drug Enforcement  
11   Administration currently assigned in Roanoke, Virginia.

12   Q     What are your duties and responsibilities as a group  
13   supervisor with the DEA?

14   A     I have 13 criminal investigators that I manage and  
15   supervise their investigations into violations of Title 21.

16   Q     What was your professional background prior to becoming a  
17   group supervisor with the DEA?

18   A     I began a career in law enforcement in 1994. I was a  
19   sheriff's deputy for approximately three years. Two years of  
20   that time I was with DEA on a task force. I hired on with DEA  
21   in 1997 and spent 17 years as a field agent, twice in El Paso,  
22   once in Roanoke, and once overseas in Lima, Peru.

23   Q     I am going to direct your attention to September 1999.  
24   Where were you assigned at that time?

25   A     I was a special agent assigned to the El Paso field

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2459

1 division office.

2 Q And what investigation were you working on in September  
3 of 1999 in El Paso?

4 A We were working an investigation with DEA Chicago,  
5 targeting an individual who was arranging to transport a large  
6 quantity of marijuana from El Paso to Chicago.

7 Q And during the course of your investigation, did you  
8 learn about the type of transport that was being used by the  
9 targets of your investigation?

10 A Yes, the target needed a tractor trailer to transport the  
11 drugs, and we subsequently were able to introduce an  
12 undercover agent as a truck driver.

13 Q And now I am going to direct your attention to  
14 September 15th, 1999.

15 Were you working on that day?

16 A Yes, ma'am.

17 Q What were you doing on that day?

18 A We were conducting surveillance of the undercover agent  
19 and the target meeting in El Paso.

20 Q And just to be clear, who was the target at that time?

21 A His name was Benjamin Haro.

22 Q And you mentioned you were working with this undercover.  
23 What was the undercover's role on that day?

24 A He was posing as a truck driver to haul the load of  
25 marijuana from El Paso to Chicago.

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2460

1 Q What happened on September 15th, 1999, when you were  
2 conducting surveillance?

3 A We followed the undercover agent and the target,  
4 Mr. Haro, to various locations in El Paso. We followed them  
5 to the El Paso International Airport. When they left the  
6 airport, Mr. Haro left in a cargo van and the undercover was  
7 in a separate vehicle. We followed them from the airport to  
8 the downtown area of El Paso, where Mr. Haro picked up two  
9 individuals, and then we followed them to an area in east  
10 El Paso, where Mr. Haro dropped those two individuals off  
11 close to a warehouse that we had previously identified on  
12 surveillance at 8775 Castner.

13 After that, they both went to a house at a different  
14 address on Compestre Street. The undercover and Mr. Haro went  
15 inside. After a short time, they came out. They left the  
16 location. We continued to follow them. They stopped and  
17 picked up two other individuals, and then went to a truck stop  
18 in central El Paso. At that time the undercover officer got  
19 out, went inside the truck stop and --

20 MR. BALAREZO: Your Honor, objection. This is all  
21 602.

22 THE COURT: Sustained.

23 Ask him what he did.

24 BY MS. PARLOVECCHIO:

25 Q What did you observe on surveillance that day? Did you

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2461

1 follow them to the truck stop?

2 A Yes, I was observing all of this. I was on surveillance  
3 observing this.

4 Q What did you observe at the truck stop?

5 A The undercover officer got out and went inside the truck  
6 stop and at that time our group supervisor directed us to  
7 arrest the three individuals in the car.

8 Q Did you arrest the three individuals in the car?

9 A Yes, ma'am.

10 Q Who were those individuals?

11 A It was Mr. Haro, a Rodrigo Marquez and a Luis Losano.

12 Q What happened after you arrested those three individuals?

13 A Those three individuals were taken to our office. I then  
14 went with the undercover officer back to the Campestre  
15 location.

16 Q And just to stop you there, the Campestre location, is  
17 that the residence you had surveilled earlier that day?

18 A Yes, ma'am.

19 Q What did you do when you went to the Campestre location,  
20 the residence?

21 A We obtained consent from one of the residents at the  
22 address and conducted a consent search, and inside the  
23 residence is where we discovered the marijuana.

24 Q Approximately how much marijuana did you seize from the  
25 residence?

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2462

1 A It was approximately thirty-five hundred pounds.

2 Q And you used the term consent search. Does that mean  
3 that the people who lived there allowed you to come in and  
4 search the residence?

5 A Yes, ma'am.

6 Q What did you do after you discovered the marijuana at the  
7 residence?

8 A At that time, after that, we secured the warehouse at  
9 8775 Castner and then went and obtained a search warrant for  
10 that location.

11 Q What had prompted you to obtain a search warrant for the  
12 warehouse location?

13 A As a result of our investigation, we learned that  
14 Mr. Haro, in addition to moving the marijuana to Chicago, was  
15 also moving or preparing a load of cocaine --

16 MR. BALAREZO: Objection.

17 THE COURT: Overruled.

18 BY MS. PARLOVECCHIO:

19 Q You may answer, sir.

20 A He was also preparing transportation for a load of  
21 cocaine that was to leave El Paso at the same time.

22 Q And was it your understanding, in obtaining that search  
23 warrant, that the cocaine was linked to that warehouse?

24 A Yes, ma'am.

25 Q So, in this warehouse you testified it was at 8775

Johnson - direct - Parlovecchio

2463

1 Castner, approximately how far was this warehouse from the  
2 U.S./Mexico border?

3 A As the crow flies, it's probably a mile.

4 Q And once you obtained the search warrant, did you go to  
5 the warehouse to conduct the search?

6 A Yes.

7 Q And what types of -- what, if any, vehicles did you  
8 observe outside of the warehouse when you arrived to conduct  
9 the search that day?

10 A At the front of the warehouse, where the large bay doors  
11 were located, there was a trailer, like a tractor-trailer  
12 trailer, that was backed up to the warehouse, one of the  
13 warehouse doors. There was a tractor that was not attached to  
14 the trailer, but it was parked also in the parking lot next to  
15 the trailer. There was a black Camaro that we had observed  
16 earlier on surveillance and there was a blue Chevy Cavalier  
17 also.

18 Q I am going to show you what's marked for identification  
19 as Government's Exhibits 207-2 and 207-3.

20 What are these photographs generally of?

21 A 207-2 is the tractor that was parked at the warehouse  
22 that day. And 207-3 is the trailer that was backed up to the  
23 bay door.

24 Q And how do you recognize them?

25 A I was there when I -- I served the warrant and was at

Johnson - direct - Parlovecchio

2464

1 that location when those pictures were taken.

2 MS. PARLOVECCHIO: The Government moves to admit  
3 Government's Exhibits 207-2 and 207-3.

4 MR. BALAREZO: No objection.

5 THE COURT: Received.

6 (Government's Exhibits 207-2 and 207-3 were received  
7 in evidence.)

8 BY MS. PARLOVECCHIO:

9 Q Now, Special Agent Johnson, I am going to show you  
10 Government's Exhibit 207-2.

11 (Exhibit published.)

12 Q What are we looking at here?

13 A Okay, that's a picture of the tractor that was found at  
14 the warehouse that day that was ultimately seized.

15 Q And the tractor is the front part of the big truck that  
16 pulls the trailer?

17 A Yes.

18 Q And where was this in relation to the warehouse when you  
19 arrived that day?

20 A The tractor was parked in the -- in the parking lot on  
21 the side of the warehouse where the bay doors were, next to  
22 the trailer.

23 Q And now showing you Government's Exhibit in evidence  
24 207-3.

25 (Exhibit published.)



Johnson - direct - Parlovecchio

2465

1 BY MS. PARLOVECCHIO:

2 Q What do we see here?

3 A That's the trailer that was backed up to the warehouse.

4 Q Did anyone search the trailer pursuant to the search  
5 warrant?

6 A Yes.

7 Q And were you present during the search of that trailer?

8 A Yes.

9 Q Who searched the trailer with you?

10 A There were other agents from our group that were there,  
11 Special Agent Ron Jimenez, my group supervisor Jose Menendez.  
12 There were officers from El Paso County Sheriff's Office and  
13 El Paso PD that work narcotics with us were there.

14 Q What, if anything, was found inside of the trailer?

15 A Inside the trailer were -- it was loaded front to back  
16 with cardboard boxes, brown cardboard boxes, and inside those  
17 boxes were shoe boxes.

18 Q What, if anything, did you find inside the shoe boxes?

19 A The shoe boxes that were closer to the rear of the  
20 trailer contained shoes. And then, as we unloaded the boxes,  
21 the boxes closer to the front had shoe boxes inside that  
22 contained bundles of cocaine.

23 Q What did those shoe boxes look like?

24 A They were black with a white-and-black checkerboard top  
25 and had the name -- brand Robert Wayne written across the top.

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2466

1 Q I am going to show you what's marked for identification  
2 as Government's Exhibits 207-4 and 207-8.

3 What are these generally?

4 A Those are all pictures of the boxes that were located at  
5 the warehouse that day.

6 Q How do you recognize them?

7 A Like I said earlier, I was there when the warrant was  
8 executed and we searched the warehouse.

9 MS. PARLOVECCHIO: The Government moves to admit  
10 Government's Exhibits 207-4 through 207-8.

11 MR. BALAREZO: No objection.

12 THE COURT: Received.

13 (Government's Exhibits 207-4 through 207-8 were  
14 received in evidence.)

15 BY MS. PARLOVECCHIO:

16 Q I am showing you Government's Exhibit 207-4.

17 What do we see here?

18 (Exhibit published.)

19 A That's the -- that is a view from inside the warehouse  
20 looking into the trailer that was backed up to the bay door.

21 Q And these cardboard boxes?

22 A Yes, those are the boxes that were loaded, as I said,  
23 from front to back inside that contained the shoe boxes.

24 Q Government's Exhibit 207-5, what are we looking at here?

25 (Exhibit published.)

Johnson - direct - Parlovecchio

2467

1 A Those are boxes that were stacked inside the warehouse to  
2 the left of the bay door that had not yet been loaded onto the  
3 trailer.

4 Q I am just going to zoom in a bit.

5 What is the name of the tape here (indicating)?

6 A Robert Wayne.

7 Q Now showing you Government's Exhibit 207-6.

8 (Exhibit published.)

9 Q What do you see here?

10 A That's another picture of the boxes that were -- that  
11 were found inside the warehouse just to the left of the bay  
12 door. The black shoe boxes are the shoe boxes that were found  
13 inside the cardboard.

14 Q And those are the shoe boxes containing cocaine?

15 A Yes.

16 Q I am showing you Government's Exhibit 207-7.

17 (Exhibit published.)

18 Q What is that?

19 A That's one of the shoe boxes.

20 Q With the checkered top you described?

21 A Yes, ma'am.

22 Q And Government's Exhibit 207-8.

23 (Exhibit published.)

24 Q What do we see here?

25 A That's two of the bundles of cocaine that was found in

Johnson - direct - Parlovecchio

2468

1 many of the shoe boxes that day.

2 Q Now, you mentioned that some of the boxes were in the  
3 warehouse. What did you find inside the warehouse?

4 A There was nothing. The warehouse was empty, other than  
5 the boxes that were in the photos.

6 Q Now, you testified earlier that you observed a blue Chevy  
7 Cavalier outside of the warehouse.

8 Was the Cavalier searched as well that day?

9 A Yes.

10 Q What, if anything, was found in the Cavalier?

11 A Inside the Cavalier was one of the shoe boxes, one of the  
12 Robert Wayne shoe boxes, and it had two bundles of cocaine in  
13 them.

14 Q And did that shoe box look similar to the shoe boxes you  
15 had found inside of the trailer?

16 A Yes.

17 Q I am going to show you Government's Exhibit 207-8 again.

18 (Exhibit published.)

19 Q And what is that?

20 A That's a picture of the shoe box that was inside the blue  
21 Cavalier.

22 Q Now, what was the cocaine packaged like that you found  
23 that day?

24 A It was wrapped in various colored wrappings, yellow,  
25 blue. And then wrapped in clear plastic.

Johnson - direct - Parlovecchio

2469

1 Q And I see that some of these kilos have a date on them?

2 A Yes, these two do.

3 Q Other than what you see here in Government's  
4 Exhibit 207-8, did you observe any brand on the cocaine that  
5 day?

6 A I don't recall any -- any specific markings on the  
7 cocaine, other than what's in this picture.

8 Q In total, how much cocaine did you seize that day?

9 A Two thousand four hundred fourteen pounds.

10 Q What is that in kilograms?

11 A Approximately a thousand ninety-seven kilograms.

12 Q What did you do with the cocaine after you seized it that  
13 day?

14 A It was transported to the DEA office in El Paso and  
15 secured in our evidence processing area.

16 Q And what did you do with it after it was put into  
17 evidence?

18 A The following week, we processed it per regulations for a  
19 seizure of that size. It's a bulk drug seizure. Our process  
20 is to remove ten -- basically, ten kilos from the total  
21 seizure as representative samples and that is what is sent to  
22 the lab for analysis.

23 Q I am going to show you now what's marked for  
24 identification as Government's Exhibit 207-1 and 207-9.

25 And just generally, what are these?

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2470

1 (Exhibit published.)

2 A Both are pictures of the drugs that were seized that day.

3 Both from the Campestre address and the Castner address.

4 Q How do you recognize them?

5 A I was there when we -- when we moved those drugs into

6 that room and took those pictures.

7 MS. PARLOVECCHIO: The Government moves to admit

8 Government's Exhibits 207-1 and 207-9.

9 MR. BALAREZO: No objection, Your Honor.

10 THE COURT: Received.

11 MS. PARLOVECCHIO: Thank you.

12 (Government's Exhibits 207-1 and 207-9 were received  
13 in evidence.)

14 BY MS. PARLOVECCHIO:

15 Q Now, just showing you Government's Exhibit 207-9, what  
16 are we looking at here?

17 (Exhibit published.)

18 MS. PARLOVECCHIO: Wait. There we go.

19 A The items on the left and right that are in the cardboard  
20 boxes, burlap sacks and the larger bundles, that's all the  
21 marijuana that was seized from the Campestre address. And  
22 then the individual bricks that are stacked in the center of  
23 the -- of the picture, against the wall, that's all the  
24 cocaine that was seized from Castner.

25 Q So you are indicating --

Johnson - direct - Parlovecchio

2471

1 MS. PARLOVECCHIO: The witness is indicating these  
2 stacks here on the left-hand side of Government's  
3 Exhibit 207-9.

4 BY MS. PARLOVECCHIO:

5 Q Those were the kilos of cocaine you seized?

6 A Yes, ma'am.

7 Q And then, looking over here on the right side of the  
8 photograph, that's the marijuana?

9 A Yes, on the right side. And the -- on the left, the  
10 boxes and burlap sacks that are there on the left, that's also  
11 marijuana.

12 Q These big boxes here (indicating)?

13 A The bottom-left corner of the picture.

14 Q Now, I am going to show you Government's Exhibit 207-1.

15 (Exhibit published.)

16 BY MS. PARLOVECCHIO:

17 Q What do you see here?

18 A That's the marijuana that came from Campestre. It's the  
19 same -- the same picture, just from a different angle, or the  
20 same drugs.

21 Q You testified that after you made all of these seizures  
22 on September 15th, 1999, you processed it and you sent it to  
23 the lab?

24 A Yes, ma'am.

25 Q Which lab did you send it to?

SAM

OCR

RMR

CRR

RPR

Johnson - direct - Parlovecchio

2472

1 A The DEA south central lab in Dallas, Texas.

2 Q I am going to show you what's marked for identification  
3 as Government's Exhibits 207-10 and 207-11.

4 And just generally, what are we looking at here?

5 A Those are lab analysis reports from the South Central Lab  
6 in Dallas.

7 Q And do these lab reports relate to the cocaine that you  
8 seized on September 15th, 1999?

9 A Yes, ma'am.

10 MS. PARLOVECCHIO: The Government moves to admit  
11 Government's Exhibits 207-10 and 207-11.

12 MR. BALAREZO: No objection.

13 THE COURT: Received.

14 (Government's Exhibits 201-10 and 207-11 were  
15 received in evidence.)

16 BY MS. PARLOVECCHIO:

17 Q Special Agent Johnson, we are looking here at  
18 Government's Exhibit 207-10.

19 (Exhibit published.)

20 Q I am going to direct your attention first to Exhibit  
21 Number 2a (indicating).

22 What does that relate to?

23 A 2a was the representative samples of the cocaine that we  
24 submitted to the lab.

25 Q And which portion of the cocaine was that?



Johnson - direct - Parlovecchio

2473

1 A The cocaine that was found in the -- in the trailer.

2 Q And what was the result of that test?

3 A It tested positive as cocaine hydrochloride at  
4 88 percent.

5 Q And 88 percent, is that the purity?

6 A Yes.

7 Q I am going to direct your attention up to the top of the  
8 lab report, the gross weight. What was the gross weight  
9 submitted to the lab?

10 A 14.12 kilograms.

11 Q And what does gross weight signify?

12 A That's everything that we sent. That's the cocaine,  
13 packaging, wrapping, that's everything.

14 Q And directing your attention now to the net weight. What  
15 was the net weight?

16 A That's the weight minus wrapping and packaging, so the  
17 weight of the cocaine.

18 Q And then directing your attention over to the right-hand  
19 side here (indicating) on this column where it says reserve  
20 weight, what is reserve weight?

21 A That's the weight of what remains after testing.

22 Q Now, we're looking at Government's Exhibit 207-11. I am  
23 going to zoom in here a bit. And I am directing your  
24 attention here to where it says Exhibit Number 3.

25 What is Exhibit Number 3?

Johnson - direct - Parlovecchio

2474

1 A Exhibit 3 were the two kilos that were taken from the  
2 shoe box that was found in the blue Cavalier.

3 Q And what was the result of this test?

4 A Positive for cocaine hydrochloride.

5 Q And the gross weight?

6 A 2.627 kilograms.

7 Q And the net weight?

8 A 2.006 kilograms.

9 Q And the reserve weight?

10 A 2.004 kilograms.

11 Q And what was the purity of that cocaine?

12 A 92 percent.

13 Q Now, were these tests of all the cocaine you seized on  
14 September 15th, 1999 or only a subset?

15 A Just a subset.

16 Q How did this drug seizure compare with other seizures  
17 you've made in the course of your career with DEA?

18 MR. BALAREZO: Objection, relevance.

19 THE COURT: Sustained.

20 BY MS. PARLOVECCHIO:

21 Q Now, you testified earlier that you made three arrests as  
22 a result of this cocaine seizure. Did you continue your  
23 investigation after making those arrests?

24 A Yes, ma'am.

25 Q As a result of that investigation, did you begin to

Johnson - cross - Balarezo

2475

1 target anyone in Mexico?

2 A Yes.

3 Q Who is that?

4 A A man that I knew as Jose Tirso.

5 Q I am going to show you what's in evidence as Government's  
6 Exhibit 74-B.

7 (Exhibit published.)

8 BY MS. PARLOVECCHIO:

9 Q Do you recognize anyone in this photograph?

10 A The gentleman on the right in the cream-colored shirt.

11 Q Who is that?

12 A That's who I knew to be Jose Tirso.

13 MS. PARLOVECCHIO: No further questions for this  
14 witness.

15 THE COURT: All right. Cross?

16 MR. BALAREZO: Briefly, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BALAREZO:

19 Q Agent, you said that the cocaine that was seized had a  
20 mark on it, is that right? The letter A?

21 A The A, yes, sir.

22 Q And you are not aware of any marks on that cocaine,  
23 correct?

24 A None that I recall.

25 Q Do you recall seeing any marked Reina, the words

Johnson - cross - Balarezo

2476

1 R-E-I-N-A?

2 A I do not remember that.

3 Q Coca-Cola?

4 MS. PARLOVECCHIO: Objection.

5 THE COURT: Overruled.

6 BY MR. BALAREZO:

7 Q Coca-Cola?

8 A I do not remember that.

9 Q Letter R?

10 A No, sir.

11 Q The letter B?

12 A No, sir.

13 Q The word Corona?

14 A No, sir.

15 Q Or a drawing of a crown?

16 A No, sir.

17 Q The word Saffido?

18 A No, sir.

19 Q Sapphire?

20 A No, sir.

21 Q Safiro?

22 A No, sir.

23 Q Condor?

24 A No, sir.

25 Q Alacron?

SAM

OCR

RMR

CRR

RPR

Johnson - redirect - Parlovecchio

2477

1 A No, sir.

2 Q Or a drawing of a scorpion?

3 THE COURT: I think you attempted to refresh him  
4 enough. He says doesn't recall.

5 MR. BALAREZO: All right, thank you, then.

6 I have no further questions.

7 THE COURT: Any redirect?

8 REDIRECT EXAMINATION

9 BY MS. PARLOVECCHIO:

10 Q Sir, do you remember any brands on the cocaine that you  
11 seized that day?

12 A Just the "A" that is in the photograph.

13 MS. PARLOVECCHIO: No further questions.

14 THE COURT: All right, you may step down. Thank  
15 you.

16 (Witness excused.)

17 THE COURT: How long for your next witness?

18 MR. FELS: Your Honor, we have some short witnesses.

19 THE COURT: Do some short witnesses.

20 MS. PARLOVECCHIO: I don't think --

21 MR. BALAREZO: Is that stature or time?

22 MR. FELS: Your Honor, if we could take a short  
23 break.

24 THE COURT: Well, if we are going to take a short  
25 break, then we will break for lunch.

Johnson - redirect - Parlovecchio

2478

1 MS. PARLOVECCHIO: That's fine, Your Honor.

2 THE COURT: Okay. Let's come back, ladies and  
3 gentlemen, at 1:15. And we have something a little special  
4 for you today for lunch, just a little bit of a change. You  
5 will see.

6 We will see you at 1:15. Don't talk about the case.  
7 Thank you.

8 (Jury exits.)

9 THE COURT: Okay, 1:15.

10 MS. PARLOVECCHIO: Just briefly, Your Honor.

11 THE COURT: Yes.

12 MS. PARLOVECCHIO: Due to a transportation issue  
13 with one of our cooperating witnesses, which I can elaborate  
14 on at sidebar, we think we may come up a little bit short  
15 time-wise this afternoon and I wanted to put it on the Court's  
16 radar. We are, obviously, moving at a much faster clip than  
17 we had anticipated, as I tried to preview for the Court  
18 yesterday, so we don't anticipate that this afternoon is going  
19 to set us back, but we do anticipate we will be ending a  
20 little short today.

21 THE COURT: Okay, thanks for the heads up.

22 (Judge BRIAN M. COGAN leaves the courtroom.)

23 (Luncheon recess taken.)

24

25 (Continued on the following page.)

**AFTERNOON SESSION**

(In open court - jury not present.)

(Defendant enters the courtroom.)

THE COURTROOM DEPUTY: All rise.

(Judge BRIAN M. COGAN enters the courtroom.)

THE COURT: Okay, let's have the jury, please.

(The jury enters the courtroom.)

THE COURT: Okay, be seated, please.

Ladies and gentlemen, as Ms. Clarke told you, it appears that I was a bit premature in telling you that we were going to do something a little different for lunch today, but I do want you to know we are watching how closely you are paying attention to the case. We are very appreciative of that and the time will come where we will do something a little special to express that appreciation.

All right, the Government may call its next witness.

MR. FELS: Thank you, Your Honor.

The Government calls Adrian Ibañez.

THE COURTROOM DEPUTY: Stand and raise your right hand.

Do you solemnly swear or affirm that the testimony you shall give to the Court will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

(Witness sworn.)

Proceedings

2480

1 THE COURTROOM DEPUTY: Please state and spell your  
2 name for the record.

3 THE WITNESS: Adrian, A-D-R-I-A-N. Last name  
4 Ibañez, I-B as in boy, A-N-E-Z.

5 THE COURT: All right, you may inquire.

6 MR. FELS: Thank you, Your Honor.

7

8 (Continued on the following page.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1    **A D R I A N   I B A Ñ E Z ,**

2            called as a witness by the Government, having been  
3            first duly sworn/affirmed by the Courtroom Deputy, was  
4            examined and testified under oath as follows:

5    DIRECT EXAMINATION

6    BY MR. FELS:

7    Q     Good afternoon, Mr. Ibañez.

8            Could you please tell the jury where you are  
9    currently employed?

10   A     I am currently a Drug Enforcement Administration  
11   intelligence research specialist at the El Paso Intelligence  
12   Center.

13   Q     And what does this mean, the El Paso Intelligence Center?

14   A     It's a DEA-led multi-agency law enforcement center that  
15   provides support to federal, state, local and travel partners.

16   Q     What are your day-to-day responsibilities over at -- it's  
17   EPIC is the short?

18   A     Yes.

19            Right now I work on the executive side of the house,  
20   so I am one of the executive assistants to the director of  
21   EPIC. So I do a lot of the executive details there at the  
22   center.

23   Q     And how long have you been with the Drug Enforcement  
24   Administration?

25   A     This year -- well, in 2019, it will be twenty years.

Proceedings

2482

1 Q And what did you do before that?

2 A Before that I was a social worker.

3 Q And what position did you hold with DEA back in 2008?

4 A In 2008, I was a intelligence research specialist  
5 assigned to the Guadalajara resident office in Guadalajara,  
6 Mexico.

7 Q And what were your responsibilities back then as an intel  
8 research specialist?

9 A I provided case support to the DEA agents who were  
10 working in the office. In addition, I also participated in CS  
11 debriefings, confidential source debriefings.

12 Q And did you ever meet a pair of twin brothers while you  
13 were working in Guadalajara?

14 A Yes, I met Pedro and Margarito Flores.

15 Q Where were they living at the time?

16 A They were living in Guadalajara.

17 Q And that's in Mexico?

18 A Yes.

19 Q And what was their status, if you know, regarding their  
20 criminal status, I should say?

21 A At the time they were fugitives from, I think, our DEA  
22 Milwaukee office on drug charges.

23 Q They were fugitives living in Mexico?

24 A Living in Mexico, yes.

25 Q And do you happen to know what their charges were?

Proceedings

2483

1 A No, not off the top of my head. I know it was out of our  
2 office in Milwaukee and it was for drug -- drugs.

3 Q Now, did you ever meet Pedro and Margarito Flores?

4 A Yes.

5 Q And where would you meet them?

6 A The initial time we met them, we actually met them in  
7 Monterrey, Mexico. And then, after that, we would meet with  
8 them in Guadalajara at usually a public place.

9 Q And why a public place?

10 A Just for security purposes, just to be out in the open.

11 Q At some point did you receive an instruction from an  
12 agent, a special agent in DEA, to meet with Pedro Flores to  
13 receive something?

14 A Yes. Special Agent Eric Durante out of our DEA Chicago  
15 office let us know that we were to meet with Pete Flores to  
16 collect a digital recorder.

17 Q Now you said Pete.

18 A Or Pedro.

19 Q Well, does he go by both?

20 A Both, yes.

21 Q And I am going to show you what's been marked --

22 MR. FELS: Just for the witness, Your Honor.

23 BY MR. FELS:

24 Q -- as Government's Exhibit 52 for identification  
25 purposes.

Proceedings

2484

1           Mr. Ibañez, do you recognize what's being depicted  
2 in Government's Exhibit 52?

3 A     Yes, it's a little difficult to tell them apart, but  
4 that's Pedro or Pete Flores.

5 Q     And you know it because you've met him in the past?

6 A     Yes.

7           MR. FELS: Your Honor, if we might publish?

8           MR. BALAREZO: No objection.

9           THE COURT: Received.

10           (Government's Exhibit 52 was received in evidence.)

11           (Exhibit published.)

12 BY MR. FELS:

13 Q     And you mentioned that he has a twin brother; is that  
14 correct?

15 A     Uh-hum.

16 Q     Okay, I'm going to show you what's been marked for  
17 Exhibit 51 for identification purposes.

18           Do you recognize who is being depicted in  
19 Government's Exhibit 51?

20 A     Margarito Flores.

21 Q     And you met with him, as well?

22 A     Yes.

23           MR. FELS: Your Honor, we seek to introduce and  
24 publish.

25           MR. BALAREZO: No objection.

Proceedings

2485

1 THE COURT: Received.

2 (Government's Exhibit 51 was received in evidence.)

3 MR. FELS: Let me just put these both on at the same  
4 time.

5 BY MR. FELS:

6 Q Government's Exhibit 51 and 52, these were commonly  
7 referred to as whom?

8 A They were the twins.

9 Q Now, you said that you went to go meet Pete or Pedro  
10 Flores, and what did you -- if anything, did you receive from  
11 him?

12 A He provided me with a digital recording device.

13 Q Was this -- do you know was this a DEA-issued recording  
14 device or was it his own personal one?

15 A I believe it was his own personal device.

16 Q And do you remember the first time that you received a  
17 recording device from Pete or Pedro Flores?

18 A I think I received the first device when we met with him  
19 in Monterrey.

20 Q Do you happen to remember the date?

21 A It was in November. November 6th, I believe, 2008.

22 Q And do you remember, once you got that recording device,  
23 what did you do with it?

24 A I took it back to the office in Guadalajara where then I  
25 transferred the file, the digital content that was on the

Proceedings

2486

1 recorder to our system, the DEA system. And then I burned it  
2 onto a CD.

3 Q And what did you do with that CD?

4 A It was then FedEx'd to a case agent, Durante, to be  
5 placed into evidence.

6 MR. FELS: And Your Honor, if I might show the  
7 witness, Government's Exhibit 609-D as in dog.

8 BY MR. FELS:

9 Q Sir, showing you what's been marked as Government's  
10 Exhibit 609-D, do you recognize the case number listed on that  
11 evidence sticker?

12 A Yes.

13 Q And there is a name right next to the acquired by, do you  
14 recognize that name?

15 A Yes, that's my name.

16 Q And showing you the contents of this bag, there appears  
17 to be some wording here that says Monterrey?

18 A Uh-hum.

19 Q 11-06-08, do you recognize that?

20 A Yes, that's my handwriting.

21 Q And then, just so we have it for the record, Government's  
22 Exhibit 609-D is what -- what exhibit number on that evidence  
23 sticker?

24 A The exhibit number is N-381.

25 Q Can you explain to the jury, what is an exhibit number

Proceedings

2487

1 beginning with than N, what is the significance of that?

2 A It just means it's nondrug evidence.

3 MR. FELS: Your Honor, we aren't going to admit this  
4 into evidence, we'll tie it up later, but might we publish for  
5 the jury?

6 THE COURT: You just want them to see the CD?

7 MR. FELS: Just very briefly.

8 THE COURT: Any objection?

9 MR. BALAREZO: Yes. I think they can see it when  
10 it's introduced.

11 MR. FELS: Okay, Your Honor, thank's fine.

12 THE COURT: Okay.

13 BY MR. FELS:

14 Q Did you meet with Pedro Flores on subsequent occasions to  
15 obtain any recording devices from him?

16 A Yes.

17 Q And directing your attention to November 16th, 2008, who  
18 did you meet with on that day?

19 A I met with Pedro, Pete Flores, on that day.

20 Q What, if anything, did he hand you?

21 A He passed me a digital recorder.

22 Q What did you do with the digital recorder when you  
23 received it?

24 A As I did before, I took it back to the office. I  
25 downloaded the digital content that was on the recorder. In

Proceedings

2488

1 this case, rather than burning it to a CD and FedExing it, we  
2 sent it -- I attached it to an e-mail that was sent to Agent  
3 Durante and then he put it into evidence.

4 Q Thank you. I'm going to do the same thing, which is show  
5 you what's been marked and just for the witness, himself, as  
6 Government's Exhibit 609-E as in echo.

7 Sir, do you recognize on the third line, the name  
8 next to the acquired by?

9 A Yeah, that's my name, acquired by Ibañez.

10 Q And do you see the date?

11 A Yes, 11-16-08.

12 Q And, again, there is an N number associated with  
13 Exhibit 609-E.

14 Can you tell us what that N number is?

15 A It's N-200.

16 Q I am showing you what's been marked for identification  
17 purposes as 609-H.

18 The same questions. The 609-H, as we said with of  
19 609-E, do you see the name next to the acquired by?

20 A Yes.

21 Q And who is that?

22 A It's my name, Adrian Ibañez.

23 Q And the date?

24 A 11-16-08.

25 Q And the exhibit number?



Proceedings

2489

1 A I believe it's N-194.

2 Q Finally, showing you what's been marked for  
3 identification purposes as Government's Exhibit 609-I.

4 The same set of questions. The third line, acquired  
5 by, whose name is listed there?

6 A It's my name, Adrian Ibañez.

7 Q Okay, this one it just says Ibañez or A Ibañez; is that  
8 correct?

9 A That's correct.

10 Q And the date?

11 A The date is 11-16-08.

12 Q And the exhibit number?

13 A It's N-195.

14 MR. FELS: Your Honor, we would seek to introduce  
15 these subject to later connection.

16 THE COURT: You are going to play the contents now?

17 MR. FELS: No, we are not going to play the  
18 contents. We will just seek to admit them subject to later  
19 connection.

20 THE COURT: What's the objection?

21 MR. BALAREZO: Defer to the Court, Your Honor.

22 THE COURT: Okay, what I will do is I will receive  
23 the physical items. The contents are not yet admitted, as the  
24 proper foundation for those has not yet been laid, but if you  
25 want to show the physical items to the jury, you can do that

Proceedings

2490

1 now.

2 MR. FELS: Thank you, Your Honor. I was going to  
3 ask that we can publish them?

4 THE COURT: Yes, that's what I said. Show them to  
5 the jury.

6 BY MR. FELS:

7 Q So, Mr. Ibañez, what are we looking at here, what number  
8 is this?

9 (Exhibit published.)

10 A It's little bit high up on my screen.

11 Q Sorry, let me zoom out.

12 A This is N-381 or 609-D, Government Exhibit.

13 Q And, again, could you just use your finger and circle  
14 your name?

15 A (Witness complies.)

16 Q Thank you.

17 Showing you what's been marked Government's  
18 Exhibit 609-E as in echo.

19 Can you tell us what N number this is?

20 A N-200.

21 Q And could you please circle your name?

22 A (Witness complies.)

23 Q Thank you.

24 Showing you what's been marked as Government's  
25 Exhibit 609-H.

Ibañez - cross - Balarezo

2491

1 (Exhibit published.)

2 Q Again which number is this, exhibit number?

3 A N-194.

4 Q Please circle your name?

5 A (Witness complies.)

6 Q Thank you.

7 And finally, Government's Exhibit 609-I.

8 (Exhibit published.)

9 A It's exhibit number N-195.

10 Q Could you please circle your name?

11 A (Witness complies.)

12 Q Thank you.

13 MR. FELS: One second, Your Honor.

14 THE COURT: Okay.

15 MR. FELS: We have no further questions.

16 THE COURT: Any cross?

17 MR. BALAREZO: Very, very briefly.

18 CROSS-EXAMINATION

19 BY MR. BALAREZO:

20 Q Mr. Ibañez, good afternoon.

21 A Good afternoon.

22 Q You received two personal recording devices; is that  
23 correct?

24 A Two digital recorders.

25 Q Okay. And you testified that you transferred the digital

Ibañez - cross - Balarezo

2492

1 file and then put it on a CD and FedEx'd it to the DEA, right?

2 A Uh-hum.

3 Q That's all you did?

4 A That's all I did, right.

5 Q So did you as part of your investigation, or whatever it  
6 is that you were doing, did you have those recordings analyzed  
7 to see if they had been edited in any way?

8 A No.

9 Q You did nothing but just copy it and send it off?

10 A Yes, sir.

11 MR. BALAREZO: That's all I have.

12 THE COURT: Any redirect?

13 MR. FELS: None.

14 THE COURT: You may step down. Thank you.

15 (Witness excused.)

16 THE COURT: Government's next witness.

17 MR. FELS: Yes, Your Honor, we would call Khrishna  
18 James.

19 (Pause.)

20 (Witness enters the courtroom and takes the stand.)

21 THE COURTROOM DEPUTY: Please raise your right hand.

22 Do you solemnly swear or affirm that the testimony  
23 you shall give to the Court will be the truth, the whole  
24 truth, and nothing but the truth?

25 THE WITNESS: Yes.

Ibañez - cross - Balarezo

2493

1 (Witness sworn.)

2 THE COURTROOM DEPUTY: Please state and spell your  
3 name for the record?

4 THE WITNESS: Khrishna James, J-A-M-E-S,  
5 K-H-R-I-S-H-N-A.

6 THE COURT: You may proceed.

7 MR. FELS: Thank you, Your Honor.

8

9 (Continued on the following page.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

SAM

OCR

RMR

CRR

RPR

James - direct - Fels

2494

1 K H R I S H N A J A M E S ,

2 called as a witness by the Government, having been  
3 first duly sworn/affirmed by the Courtroom Deputy, was  
4 examined and testified under oath as follows:

5 DIRECT EXAMINATION

6 BY MR. FELS:

7 Q Good afternoon, Ms. James.

8 A Good afternoon.

9 Q With whom are you employed?

10 A I'm employed by the Department of Justice Drug  
11 Enforcement Administration.

12 Q And for how long have you been employed with the DEA?

13 A I have been employed with the DEA for 21 years.

14 Q Let's talk a little bit about your career.

15 What did you start out as with the DEA?

16 A For the first ten years I was a forensic chemist, and for  
17 the last eleven years I'm a digital forensic examiner.

18 Q Okay, let's talk about what you started doing.

19 You said a forensic chemist. Could you describe for  
20 the jury what is a forensic chemist?

21 A A forensic chemist analyzes drug evidence, testifies in a  
22 court of law, and assists the agents whenever possible.

23 Q What's your educational background?

24 A I received my Bachelor of Science degree in chemistry  
25 from Southern University.

SAM

OCR

RMR

CRR

RPR

James - direct - Fels

2495

1 Q And you said you did that for the first half of your  
2 career and then you transitioned to another position; is that  
3 correct?

4 A Correct.

5 Q And I believe you said that you do digital forensic  
6 examination; is that correct?

7 A Correct.

8 Q So could you describe to the jury, what is that job?

9 A That encompasses analyzing digital evidence in the form  
10 of cell phones, laptops, thumb drives, and we testify in the  
11 court of law and we assist agents whenever possible.

12 Q So, digital forensic examination, are there a number of  
13 different media and types of objects that you examine?

14 A Yes.

15 Q Could you give us an example of some of the other  
16 different types of objects that you examine, besides as you  
17 mentioned phones?

18 A Phones, we do computers, laptops, iPads, CDs, DVDs, thumb  
19 drives, DVRs.

20 Q And what's the process of doing -- let's talk about  
21 specifically a phone.

22 What's the process of doing a digital forensic  
23 examination of a phone?

24 A Well, the process is when the phone is assigned to me, I  
25 then take it to my desk and start analysis on the phone using

SAM

OCR

RMR

CRR

RPR

James - direct - Fels

2496

1 forensically sound software. In this case, Cellebrite.

2 Q What is Cellebrite?

3 A Cellebrite is forensic software used that allows access  
4 to the phones's operating system. And then in that aspect, it  
5 can communicate with actual live evidence on the phone and  
6 actually the phone's memory.

7 Q And then, once you are able to access the phone's memory,  
8 what kind of information can you get off of that phone?

9 A Depending on the make and model of the phone, we're able  
10 to get contacts, call logs, text messages, pictures,  
11 audio/video, recordings, voicemails. Whatever is contained on  
12 the phone, if the software allows us.

13 Q Okay, I want to direct your attention back to 2009.

14 Were you asked to examine a particular set of cell  
15 phones?

16 A Yes.

17 Q And just showing the witness, for identification  
18 purposes, Government's Exhibit 609-F as in Frank. Let's take  
19 a look at this evidence label here.

20 Do you see your initials?

21 A Yes, it is at the bottom of the evidence sticker.

22 Q And what's the significance of your initials on that  
23 evidence sticker?

24 A It just certifies that I am the one who opened the  
25 evidence and performed the analysis.



James - direct - Fels

2497

1 Q As you take a look at what's the contents of this bag,  
2 can you recognize what's inside here?

3 A Yes, a white LG phone.

4 Q I'm sorry, your microphone went out.

5 A I'm sorry, a white LG phone.

6 THE COURT: Still out?

7 MR. FELS: I think it's still out.

8 THE COURT: Try it again.

9 THE WITNESS: A white LG phone.

10 MR. FELS: Did everyone hear? Okay.

11 BY MR. FELS:

12 Q Did you examine this phone, that's Government's Exhibit  
13 609-F?

14 A Yes, I did.

15 Q So what did you do to examine this particular phone?

16 A I opened it up and then started --

17 MR. FELS: I think it's still out.

18 THE COURT: Hang on.

19 THE WITNESS: Is that better?

20 THE COURT: Yes.

21 THE WITNESS: User error.

22 A I opened the heated evidence envelope, took out the  
23 cellular device and then performed analysis on it.

24 Q And what type of analysis, do you remember, were you able  
25 to perform on this phone?

SAM

OCR

RMR

CRR

RPR

James - direct - Fels

2498

1 A I was able to perform Cellebrite, and I also did a manual  
2 exam on the phone.

3 Q What do you mean by a manual exam?

4 A Cellebrite may not be able to access all of the data on  
5 the phone, so in that case then we do a manual exam. And in  
6 this case I transcribed the call log, and I also took pictures  
7 of the inbox messages contained on the phone.

8 Q And how did you memorialize your search, what did you do  
9 to save the results of your search?

10 A When saving the results of our search -- well, my search,  
11 I placed it on a readable format. In this case it was  
12 Microsoft Excel, and then HTML and placed it on a Binding CD.

13 Q I want to show you what's been marked for identification  
14 purposes as Government's Exhibit 609-G.

15 Do you recognize, on the third line, a name on this  
16 exhibit sticker or this evidence sticker, I should say?

17 A Acquired by CFE Khrishna James.

18 Q Who is that?

19 A My name, Khrishna James.

20 Q Okay. And I am going to show you the contents of this  
21 bag, turn it around.

22 Do you recognize your name and initials on this  
23 disk?

24 A Yes, I do.

25 Q Now, this disk has a number of different numbers, N

James - direct - Fels

2499

1 numbers, listed on the bottom.

2 What's the significance of that?

3 A Those were the assigned numbers to the exhibits.

4 Q So meaning there was more than one phone?

5 A Yes, there was more than one phone submitted --

6 Q Okay.

7 A -- for analysis.

8 Q Now, Ms. James, were you asked to review the contents of  
9 Government's Exhibit 609-G last night?

10 A Yes, I was.

11 Q And did you help to create another exhibit?

12 A Yes.

13 Q And what were you trying to do, what kind of exhibit were  
14 you making?

15 A It was a copy of the subset exhibit in question in 352  
16 that they identified, that the agent identified the exhibit  
17 as, and it's an exact copy of what is found on my Binding CD.

18 Q Okay, showing what's been marked for identification  
19 purposes as Government's Exhibit 609-J.

20 Do you recognize what 609-J is?

21 A Yes.

22 Q And do you recognize your initials on that disk?

23 A Yes.

24 Q And the date?

25 A Yes.

James - direct - Fels

2500

1 Q And is that yesterday's date?

2 A Yes, it is.

3 Q Okay.

4 MR. FELS: So, Your Honor, we would move to  
5 introduce Government's Exhibit 609-J.

6 MR. BALAREZO: No objection.

7 THE COURT: Received.

8 (Government's Exhibit 609-J was received in  
9 evidence.)

10 MR. FELS: And we would ask to publish?

11 THE COURT: Okay, go ahead.

12 (Exhibit published.)

13 BY MR. FELS:

14 Q Just zooming in here.

15 Government's Exhibit 609-J, which is in evidence,  
16 could you just circle your initials and the date on the disk?

17 A With my hand?

18 Q Yes.

19 A (So marked.)

20 Q Now, just to make sure that I understand, and the jury  
21 understands, 609-J are the results of your analysis of the  
22 phone, which is 609-F; is that correct?

23 A Correct.

24 MR. FELS: No further questions.

25 THE COURT: All right, any cross?

SAM

OCR

RMR

CRR

RPR

James - cross - Balarezo

2501

1 MR. BALAREZO: Very briefly.

2 CROSS-EXAMINATION

3 BY MR. BALAREZO:

4 Q Good afternoon, ma'am.

5 A Good afternoon.

6 Q Is it correct that your role was just basically taking  
7 the information off the phone and putting on the CDs?

8 A Correct.

9 Q You didn't have any role in, for example, verifying any  
10 of the information on the phone?

11 A No.

12 Q For example, if one of the contacts on the phone was man  
13 or a girl or a woman, you didn't verify whether or not there  
14 was actually a man or a woman?

15 A No.

16 Q Or if there was an Eduardo on the phone, you didn't  
17 verify if that was Eduardo's phone number?

18 A No, I did not.

19 MR. BALAREZO: Okay, thank you.

20 No further questions, Your Honor.

21 THE COURT: Anything else?

22 MR. FELS: No, Your Honor.

23 THE COURT: Thank you. You may step down.

24 (Witness excused.)

25 THE COURT: Government's next witness?

Proceedings

2502

1 MR. FELS: Your Honor, we call Todd Bagetis, please.

2 (Witness enters the courtroom and takes the stand.)

3 THE COURTROOM DEPUTY: Please raise your right hand.

4 Do you solemnly swear or affirm that the testimony

5 you shall give to the Court will be the truth, the whole

6 truth, and nothing but the truth?

7 THE WITNESS: Yes, ma'am.

8 THE COURTROOM DEPUTY: Please state and spell your

9 name for the record.

10 THE WITNESS: Todd James Bagetis.

11 THE COURTROOM DEPUTY: Please spell your last name.

12 THE WITNESS: Todd James Bagetis, B-A-G-E-T-I-S.

13 THE COURT: You may inquire.

14 MR. FELS: Thank you, Your Honor.

15

16 (Continued on the following page.)

17

18

19

20

21

22

23

24

25

Bagetis - direct - Fels

2503

1 T O D D J A M E S B A G E T I S ,

2 called as a witness by the Government, having been first  
3 duly sworn/affirmed by the Courtroom Deputy Courtroom  
4 Deputy, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FELLS:

7 Q Lieutenant Commander Bagetis, with whom do you work?

8 A I work for the United States Coast Guard.

9 Q And what's your current rank?

10 A I'm an executive officer of Marine Safety Unit Valdez,  
11 which is located in Valdez, Alaska.

12 Q Sir, were you expected to come earlier in this trial?

13 A Yes.

14 Q And what happened?

15 A We had a major earthquake, and because of that flights  
16 were shut down pretty hard and a lot of devastation and damage  
17 to the local community.

18 Q Thank you for being here today.

19 A Thank you.

20 Q What are your current responsibilities with the Coast  
21 Guard in Valdez, Alaska?

22 A I'm, ultimately, Number 2 within the Coast Guard within  
23 Prince William Sound, Alaska, which is, I guess if you compare  
24 it to New York, it's about the same area of responsibility as  
25 New York City and Long Island.

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2504

1 Q And how long have you been with the Coast Guard?

2 A Twenty years this past November.

3 Q Let's go back ten years, back in September of 2008.

4 Where were you assigned at that time?

5 A I was assigned to Tactical Law Enforcement South located  
6 in Opa-locka, Florida, which is in the Miami, Florida metro  
7 area.

8 Q And did you go out on deployment at some point in that  
9 month of September of 2008?

10 A Yes, sir. I was deployable team leader for the United  
11 States Coast Guard. I was an officer in charge of a counter-  
12 narcotic law enforcement team that provided -- I provided law  
13 enforcement oversight and responsibilities in the Caribbean in  
14 Central/South America Pacific Ocean.

15 Q And I want to direct your attention specifically to the  
16 date of September 13th of 2008.

17 On board what ship were you on that day?

18 A I was on board the US MacInerney.

19 Q And do you remember where you were out on patrol that  
20 day?

21 A I was in patrol in the eastern Pacific Ocean.

22 Q And do you happen to remember the exact coordinates or  
23 approximately where you were?

24 A We were approximately in the -- between 300 and  
25 350 nautical miles east of Guatemala.

SAM

OCR

RMR

CRR

RPR



Bagetis - direct - Fels

2505

1 Q Were you asked to help prepare a map for the jury's  
2 assistance based on the coordinates where you were that day,  
3 September 13th, 2008?

4 A Yes, sir.

5 Q And showing what's been marked for identification  
6 purposes as Government's Exhibit 202-14.

7 Is this the map that you helped to create?

8 A Yes, and that location, that lat and long is approximate  
9 335 nautical miles from -- from the coast.

10 MR. FELS: And, Your Honor, we seek to introduce  
11 Government's Exhibit 202-14.

12 MR. LICHTMAN: No objection.

13 THE COURT: Received.

14 MR. FELS: If we can publish to the jury.

15 (Government's Exhibit 202-14 was received in  
16 evidence.)

17 (Exhibit published.)

18 BY MR. FELS:

19 Q When you said you were east of Guatemala, was it the  
20 Guatemala country you were east of?

21 THE COURT: Ask that question again, please.

22 MR. FELS: Certainly.

23 Q What country were you east of?

24 A Ultimate, the location would be San Jose, Guatemala.

25 335 nautical miles from San Jose, Guatemala.

Bagetis - direct - Fels

2506

1 Q Okay, and if we can just look at Government's  
2 Exhibit 202-14, what does this point (indicating) represent?

3 A It's a latitude and longitude.

4 Q And what does it represent specifically with respect to  
5 September 13th, 2008?

6 A It's approximate location of -- of a seizure that my team  
7 and I had.

8 Q Okay, and what is -- the red dot is where the boat was,  
9 is that correct?

10 A Correct, sir.

11 Q And what country is directly to the east of the point  
12 where you were at?

13 A The map is a little off, but it's approximately 335 miles  
14 east of San Jose, Guatemala, but it's east of Costa Rica.

15 Q East of Costa Rica, is that correct?

16 A Yes.

17 Q Now, tell us what happened on that day, September 13th of  
18 2008.

19 A My -- again, I was a deployable team leader of a eight-  
20 to nine-person team and on this day we were in a random law  
21 enforcement patrol in the Pacific Ocean --

22 Q And --

23 A -- and we encountered a suspicious vessel.

24 Q And so as the team leader, what decision did you make?

25 A Based on -- based on a visual and a profile of the

Bagetis - direct - Fels

2507

1 vessel, we determined it was a semi-submergible vessel, which  
2 is known for transporting narcotics, preferably in this region  
3 it's known for transporting cocaine.

4 MR. LICHTMAN: Objection.

5 THE COURT: Hold on a second.

6 What's the objection?

7 MR. LICHTMAN: The basis for his opinion.

8 THE COURT: No, I think he's testified about a  
9 enough of his background. It's up to the jury to decide what  
10 weight to give the testimony. Overruled.

11 BY MR. FELS:

12 Q I'm sorry, could you continue, please?

13 A Well, again, we were on a random patrol and we had a  
14 visual contact and a radar contact of a vessel. And based on  
15 my training and experience, it was a -- it was a semi-  
16 submergible vessel often called a SPSS known for transporting  
17 cocaine.

18 Q And once you made some visual contact of this SPSS, what  
19 did you decide to do as a team leader to further investigate?

20 A I've had a number of, you know, seizures in my career, at  
21 least a hundred of them, and we've had, myself and my team,  
22 we've had a couple of experiences with these SPSS's.

23 Typically, when you board them they scuttle, which is they  
24 have -- they're always -- everyone we've encountered they have  
25 a device inside where the crew member opens up the hatch and

Bagetis - direct - Fels

2508

1 allows water to come in. And these vessels sink pretty  
2 quickly, between three and five minutes. Thus, we're not able  
3 to obtain any of the contraband.

4 And so our approach in this situation was to board  
5 the vessel at nighttime, covertly, so -- so the crew members  
6 on board would not see us and we would be able to get on board  
7 as soon as possible to take down the vessel without them  
8 scuttling. Thus, not only restoring the contraband as  
9 evidence, but also, most importantly, for the safety of the  
10 crew and the safety of my team.

11 THE COURT: What typically happens to the crew when  
12 they scuttle?

13 THE WITNESS: Nine out of ten times they -- they go  
14 on board the -- on top of the SPSS and our first priority,  
15 based on Coast Guard protocol and policy, is we -- it's always  
16 life over contraband. So we immediately attend to the people  
17 that come up from the SPSS, put lifejackets on them, ensure  
18 they're safe. And then priority Number 2 would be to try to  
19 obtain some of the contraband. By doing that, though, sir,  
20 nine out of ten times we'll lose the contraband because we are  
21 attending to the detainees.

22 THE COURT: So they rely on you to save them and --

23 THE WITNESS: Every time, yep. And if we lucky,  
24 we'll get a bale or two that floats up through the scuttle,  
25 but most of the time we don't.

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2509

1 THE COURT: Thank you.

2 BY MR. FELS:

3 Q So you made the decision to launch a team to try to  
4 covertly board this SPSS, is that correct?

5 A Correct.

6 Q Now, are you on that specific boarding team, that first  
7 wave going in?

8 A I was -- I was the team leader. I was a part of the  
9 team, in charge of the team; however, I was on board the US --  
10 US MacInerney.

11 Q And was there something that one of your team members had  
12 to allow you to get realtime visuals as to what was going on?

13 MR. LICHTMAN: Leading.

14 THE COURT: Sustained.

15 Q How were you able to monitor what was happening?

16 A By -- by lots of means. And I'll explain each one.

17 I was -- I was on the bridge. I had radar on the  
18 vessel. I had radio with all my team members. We had  
19 night-vision capability. We had flare capability, which can  
20 tell the heat, body heat. And I had live TV feed. Basically,  
21 one of my team members had a camera on top of his tactical  
22 helmet and I could view that.

23 So I had a visual of whatever they were doing ,  
24 verbally and by movements. I could see it. I could hear it.  
25 And we had command control that way, sir.

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2510

1 Q And was there a video of the initial approach of this  
2 SPSS that was -- that was created?

3 A Yes.

4 Q Have you reviewed that video prior to today?

5 A Yes, sir.

6 Q Showing you what's been marked for identification  
7 purposes as Government's Exhibit 202-2.

8 Do you recognize your initials and a date?

9 A Yes.

10 Q What is the significance of your initials and the date on  
11 Government's Exhibit 202-2?

12 A This was -- this was the video that was taken.

13 Granted, I'd have to say the quality of this video,  
14 the pixels are definitely not as high quality as what was  
15 originally taken. But it is, it's exactly the video that was  
16 taken.

17 Q And do the contents of Government's Exhibit 202-2 fairly  
18 and accurately depict the approach to the SPSS as you  
19 personally observed it on September 13th, 2008?

20 A Yes.

21 MR. FELS: Your Honor, we'd move to introduce  
22 Government's Exhibit 202-2 and publish to the jury.

23 MR. LICHTMAN: No objection.

24 THE COURT: Received.

25 (Government's Exhibit 202-2 was received in

Bagetis - direct - Fels

2511

1 evidence.)

2 (Exhibit published.)

3 BY MR. FELS:

4 Q And we'd like you to narrate some of what's going on that  
5 the jury can see.

6 A Yes, sir.

7 (Video played.)

8 A That light right there is a flare I ordered my boarding  
9 team to light off. And part of that is so we can see the  
10 SPSS; and also, it would distract the crew members on board if  
11 they had weapons to prohibit them from firing rounds at us for  
12 the safety. Shot another flare up. Crew members in the  
13 bridge of that SPSS, they were looking straight ahead at the  
14 flare, they're blinded. We make our approach using a rigid  
15 hull inflatable raft and we sneak on board the SPSS. They had  
16 no -- they had no clue we were there until we stepped on board  
17 the SPSS. Ultimately, they heard us from there on.

18 As soon as we board, a couple of my crew members are  
19 on board right now.

20 Q What are we looking at right here in that brief --

21 A They're on board. As soon as they get on board and they  
22 hear us, they put the SPSS in stern and ultimately try to --  
23 and I'll -- this is my opinion, they -- they -- they were  
24 acting angry based on my visual observations --

25 MR. LICHTMAN: Objection.

Bagetis - direct - Fels

2512

1 A -- and what I could hear.

2 THE COURT: Overruled.

3 A They put the vessel in stern, which --

4 Q What does that mean, put it in stern?

5 A Stern propulsion, and they try -- and based on their  
6 maneuverabilities and my training and experience, they tried  
7 to throw off my -- my crew, my team off the SPSS.

8 I had a linguist on board, told them, Stop, stop,  
9 and they continued to put the SPSS in stern propulsion and my  
10 crew members were hanging onto the exhaust manifold of the  
11 SPSS for their dear life.

12 THE COURT: Does that mean they threw it into  
13 reverse, essentially?

14 THE WITNESS: Yes.

15 BY MR. FELS:

16 Q And are you in continuous contact with your team, the  
17 boarding team at this point?

18 A Yes, sir.

19 Q Okay, now there is a an object right here (indicating) in  
20 the center, a gray object with what appears to be a box.

21 Do you see what that is?

22 A Yes. Yes, that's the -- that's the hatch. Right below  
23 that manhole hatch is the steering wheel, the helm we call it  
24 in maritime, using maritime terminology.

25 Q And we just saw a man poke his head out. Who is that?

SAM

OCR

RMR

CRR

RPR



Bagetis - direct - Fels

2513

1 A He hit the -- the man hit the scuttle-on valve, one of  
2 the crew members opened up that scuttle valve. They're taking  
3 on water right now, the SPSS is. And there's about a foot of  
4 water inside the SPSS and we gave -- we provided the crew  
5 member a verbal instruction to shut that scuttle valve off,  
6 preventing the vessel from sinking.

7 This was the U.S. Coast Guard's first SPSS nighttime  
8 takedown. So since then we've developed best practices and --  
9 for the safety of the boarding teams, but this is how we --  
10 this was the first seizure to that caliber.

11 (Video stopped.)

12 Q Now, how many people were inside that SPSS, that semi-  
13 submersible?

14 A Self-propelled semi-submergible.

15 Q Submergible?

16 A Yeah.

17 Q How many people were inside?

18 A Zero four, four crew members.

19 Q Were you able to get those crew members off?

20 A Yes.

21 Q And what did you do then?

22 A We got the four crew members off. We did a basic safety  
23 inspection of the vessel to make sure it wasn't taking on any  
24 water. Made sure the crew members had lifejackets on. Asked  
25 them if they had any injuries, medical conditions. We took

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2514

1 all four crew members. We treated them as detainees.

2 At that time I was working through my -- my own  
3 chain of command and, you know, it was determined that based  
4 on the information we gathered from the four detained -- from  
5 the four detainees at that time and from the vessel, that the  
6 vessel would be treated as a stateless vessel. Basically, a  
7 vessel without any nationality because of lack of  
8 documentation or -- or conflicting documentation at that time.

9 Q And what's the significance of the fact that this vessel  
10 was stateless, what did that allow you to do?

11 A It allows us to treat the vessel -- exercise our  
12 authority, U.S. laws and Coast Guard authority.

13 Q To do what?

14 A To board, seize, detain. Our law enforcement authority.

15 Q Now, did you get a look at this semi -- SPSS, let's call  
16 it that, in daylight?

17 A Yes; both nighttime and daylight.

18 Q And I am going to show you what's been marked as  
19 Government's Exhibit 202-1 for identification purposes.

20 Do you recognize what's being depicted in  
21 Government's Exhibit 202-1?

22 A Yes. This is a daytime photo of the SPSS. Forward you  
23 have --

24 Q Well, hold on one second.

25 MR. FELS: We had a seek to admit.

Bagetis - direct - Fels

2515

1 MR. LICHTMAN: No objection.

2 THE COURT: Received.

3 (Government's Exhibit 202-1 was received in  
4 evidence.)

5 MR. FELS: And publish to the jury, please.

6 (Exhibit published.)

7 BY MR. FELS:

8 Q Now, I'm showing you what's been introduced as  
9 Government's Exhibit 202-1.

10 What are we looking at, let's put it right here?

11 A That's the lookout. There is a starboard side, port side  
12 window, which is right side is starboard. Port side is left.  
13 And then you have a forward window, kind of like a windshield  
14 of a car.

15 Behind that is the manhole hatch, so that's how they  
16 get in and out of the SPSS.

17 Q Could you circle that for us, please, just on the screen?

18 A Right here (so marked.) Port side, right there.

19 (Indicating) forward, starboard side, the right side  
20 (indicating), and then the manhole hatch is right there  
21 (indicating.)

22 Q Now, behind here (indicating), what I'm circling in  
23 yellow, what is that?

24 A That is kind of like a tailpipe of a car. Exhaust  
25 manifold and exhaust, and it's also the air intake. So when

Bagetis - direct - Fels

2516

1 they're inside, that's how they -- or that's how they get  
2 oxygen. It allows oxygen in and it allows exhaust.

3 That's one thing you have to be careful when we  
4 board these, they're not engineered like a Ford or a Chevy  
5 vehicle. The exhaust is pretty close to the air intake.  
6 Thus, it creates an environment in the living quarters of this  
7 vessel, it could be unsafe conditions for breathing in. So  
8 that's why we -- part of our basic safety inspection, we have  
9 oxygen calibrators on us and four gas meters to make sure the  
10 environment is safe.

11 Q And how does this vessel move through the water?

12 A Extremely low profile. This profile is actually high  
13 because it doesn't have all the contraband. Ultimately, we  
14 seized over 1300 -- 13,000 pounds of narcotics from this  
15 vessel. And so -- because if you add that weight to it, it  
16 creates a low profile.

17 The gray -- there should be, when it's fully full,  
18 there will be no white part right here (indicating.) You  
19 won't see that. It has a low profile, so you can't pick it up  
20 on satellites. You can't pick it up on radar. You can't pick  
21 it up on any detection. Their engine -- their engineer -- you  
22 know, the engineer design of it is pretty -- pretty good  
23 actually for -- you can't detect them.

24 Q And circling what's right here (indicating), what is this  
25 in yellow at the front?

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2517

1 A Inside this hatch right here (indicating) is a storage  
2 compartment. That's where we discovered contraband.

3 Q And -- I'm sorry.

4 A You can also put contraband through this hatch  
5 (indicating) and through this hatch (indicating). And  
6 basically, when we were doing our basic safety inspection,  
7 making sure the air quality was decent enough for human  
8 occupancy so we could go down there making sure the vessel  
9 wasn't taking on water, contraband was in plain site.

10 Q Did you, personally, observe it?

11 A Yes.

12 Q And were there photographs that were taken of the  
13 contraband where they were found?

14 A Yes, sir.

15 Q Okay.

16 A And video.

17 Q Showing you what's been marked as Government's  
18 Exhibit 202-3, 202-4 for identification purposes.

19 Do you recognize what's being depicted in  
20 Government's Exhibit 202-3 and 202-4?

21 A Yes, sir. It's bales of pure cocaine, 25 kilos per bale  
22 approximately.

23 MR. FELS: Your Honor, we would move to introduce  
24 Government's Exhibits 202-3 and 202-4.

25 MR. LICHTMAN: No objection.

Bagetis - direct - Fels

2518

1 THE COURT: Received.

2 (Government's Exhibits 202-3 and 202-4 were received  
3 in evidence.)

4 MR. FELS: And move to publish, please.

5 (Exhibit published.)

6 BY MR. FELS:

7 Q So showing you what's been marked and introduced in  
8 evidence as Government's Exhibit 202-3, can you describe to  
9 the jury, what are we looking at here over the left?

10 A Well, if you go down the manhole hatch that I circled  
11 before, this right here (indicating) you can just see a little  
12 piece of it, this is the helm. In other words, it's the  
13 steering wheel of the vessel, similar to the steering wheel of  
14 a vehicle. And you just go right down and all these bales of  
15 cocaine are in plain view.

16 Based on our training and experience, they're --  
17 they're typically watertight packages. So they're not exposed  
18 to humidity, which we find in that typical area. They're not  
19 exposed to dampness or wetness.

20 Q And showing you what's been introduced as Government's  
21 Exhibit 202-4, what are we looking at here?

22 (Exhibit published.)

23 A Those are the bales of cocaine.

24 Q And I want to point out -- I'll do it on the screen here,  
25 these little red and yellow or natural color (indicating).

Bagetis - direct - Fels

2519

1 Do you recognize what those are?

2 A Yes, typically, you know, out of the hundred seizures  
3 I've had in my career, most of these bales are marked one way  
4 or another. And that's they're marked based on who's  
5 producing it, where the bales are going to, and what  
6 distributors are receiving the bales.

7 Q But you recognize what are these red and yellow objects?

8 A It's burlap wrapped in different -- various types of  
9 thread, different colors.

10 Q Now, did you ask that one of these bales be brought up to  
11 the ship to conduct some sort of an examination or test?

12 A Correct.

13 Q What kind of test is that?

14 A Our standard protocol is to do a narcotic identification  
15 kit test on the contraband to ensure that it is what we think  
16 it is based on our training and experience.

17 So we took a representative sample and we conducted  
18 that test twice. Both tests were documented, filmed,  
19 photographed and witnessed by various -- by multiple members  
20 of my team, and both of the tests turned out positive for  
21 cocaine.

22 Basically, it's a little pouch. You take a sample  
23 and you put the cocaine in the pouch. There is some -- some  
24 tubes you squeeze, and based on the color it tells you what  
25 narcotic, confirms what narcotic it is.

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2520

1 Q And based on the results, the positive results of those  
2 tests, did you order that something be taken off of this  
3 semi-submersible?

4 A We -- not only did we detain the four detainees, we  
5 took -- we detained all possible evidence on board; which is  
6 sat phones, cell phones, logs, electronic devices. We took --  
7 we took as much cocaine as possible. We sounded all the fuel  
8 tanks to see if there was any hidden compartments or  
9 parasites, as we call them, within the fuel tanks. You know,  
10 ultimately, we ended up with 200 -- 237 bales of cocaine.

11 Q And you moved them from where to where?

12 A We moved them from the US -- I'm sorry, we moved them  
13 from the SPSS to the US MacInerney.

14 Q Showing you what's been marked as Government's  
15 Exhibit 202-5, 202-6, 202-7, 202-8 for identification  
16 purposes.

17 Do you recognize what's being depicted in these  
18 photographs?

19 A Yes, sir.

20 Q And what is being depicted in this array of photographs?

21 A Storage -- storage compartment and underneath that  
22 storage compartment was bales of cocaine stacked upon each  
23 other.

24 MR. FELS: We'll seek to introduce, Your Honor,  
25 Government's Exhibit 202-5 through 8.

SAM

OCR

RMR

CRR

RPR



Bagetis - direct - Fels

2521

1 MR. LICHTMAN: No objection.

2 THE COURT: Received.

3 (Government's Exhibits 202-5 through 202-8 were  
4 received in evidence.)

5 MR. FELS: And publish them to the jury.

6 BY MR. FELS:

7 Q So what are we looking at here in Government's  
8 Exhibit 202-5?

9 (Exhibit published.)

10 A So, one of the hatches on board of the SPSS.

11 Q And 202-6?

12 (Exhibit published.)

13 A Two of my crew members were next to the forward hatch.  
14 This is the manhole match right here (indicating). These  
15 (indicating) are the exhaust manifold and intake air manifold  
16 on board the SPSS that, ultimately, my crew members were  
17 hanging on for their dear life.

18 Q And to the right here (indicating), this white object  
19 with a black bottom, what's being depicted there to the top  
20 right part of the photo?

21 A This photo was -- that's the USS MacInerney, and this is  
22 the Jacob's ladder.

23 Q That's the access to the ship, is that correct?

24 A Correct.

25 Q And Government's Exhibit 202-7, what are we looking at

Bagetis - direct - Fels

2522

1 here?

2 (Exhibit published.)

3 A Bales of cocaine through one of the access ports.

4 Q And, again, this red and straw or yellow-colored objects?

5 A It's packaging material, typically known as -- they mark  
6 them differently depending on where the bales are going to.

7 Q And what are we looking at 202-8?

8 (Exhibit published.)

9 A One -- it's one bale of cocaine coming out of the access,  
10 which is just over, typically they're just -- if you add the  
11 calculations, they're just over approximately 50 pounds, 50 to  
12 55 pounds of cocaine.

13 Q Now, did you personally carry any of these bales of  
14 cocaine?

15 A Yes, I did.

16 Q And did something happen while you personally carried one  
17 of these bales?

18 A Yeah, a couple things actually. This one sticks with me  
19 probably for the rest of my life because I was severely  
20 injured carrying these bales.

21 I bulged a couple of disks in my back and I was  
22 exposed to cocaine too, based on some of the -- some of the  
23 bales were actually -- the packaging was ripped and so the  
24 molecules were in the air. So a lot of -- a lot of my team  
25 was, over the duration of a few days, we were exposed either

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2523

1 by the skin or by breathing in the material.

2 Q Have you had to have any sort of medical procedures  
3 relating to carrying this cocaine?

4 A Yes, a couple years of physical therapy and I still -- I  
5 get a back injection like every three to four months to kill  
6 nerves.

7 Q Showing you what's been marked as Government's  
8 Exhibit 202-9 for identification purposes.

9 Do you recognize this photograph?

10 A Correct. We --

11 Q Do you know what it depicts?

12 A In order to support safety and further, you know,  
13 prohibit anybody from getting injured, we came up with a  
14 hoisting mechanism to hoist up the bales of cocaine to the  
15 US MacInerney, and this is the hoisting device.

16 So we were able to -- anywhere from four to eight  
17 bales of cocaine, we were able to hoist up at a time instead  
18 of doing the daisy chain with my team.

19 Q And what is a daisy chain?

20 A Hand-over-hand kind of like if you're moving stuff, a  
21 couple people would take out the bales of cocaine and we would  
22 hand it to the next person.

23 THE COURT: Fire brigade?

24 THE WITNESS: Exactly, sir. Yeah, fire brigade.

25 MR. FELS: And, Your Honor, move to admit

Bagetis - direct - Fels

2524

1 Government's Exhibit 202-9.

2 MR. LICHTMAN: No objection.

3 THE COURT: Received.

4 (Government's Exhibit 202-9 was received in  
5 evidence.)

6 MR. FELS: If we could publish that.

7 (Exhibit published.)

8 BY MR. FELS:

9 Q Where we looking at here (indicating), Lieutenant  
10 Commander Bagetis?

11 A That's a hoisting strap.

12 Q And that's the hoisting strap that you were just  
13 describing, correct?

14 A Yes.

15 Q And what is underneath there?

16 A These are -- these are bales of cocaine.

17 Q So what did you wind up doing with this semi-submersible,  
18 itself?

19 A We -- we took the SPSS, four detainees, and the  
20 representative sample and we took it into Costa Rica.  
21 Puntarenas, I believe you pronounce it, Costa Rica. And we  
22 met a DEA agent and we handed over chain of custody to the DEA  
23 agent. The 200 and -- there was 237 bales, so 236-and-a-half  
24 stayed on board the US MacInerney. Ten kilos, the  
25 representative sample, detainees, all the evidence, that went

SAM

OCR

RMR

CRR

RPR

Bagetis - direct - Fels

2525

1 to the DEA agent in Costa Rica.

2 Q And the bulk, where did that ultimately go?

3 A The bulk went to Port Everglades, Florida to another DEA  
4 agent.

5 Q Okay. How did you get the semi-submersible to Costa  
6 Rica?

7 A We towed it.

8 Q Showing you what's been marked as Government's  
9 Exhibit 202-10.

10 Do you recognize this photograph?

11 A Yes. It was a very challenging tow evolution.

12 THE COURT: Just tell him first what is the  
13 photograph?

14 THE WITNESS: The photograph is the US MacInerney  
15 towing the SPSS.

16 MR. FELS: Your Honor, we move to introduce  
17 Government's Exhibit 202-10.

18 MR. LICHTMAN: No objection.

19 THE COURT: Received.

20 (Government's Exhibit 202-10 was received in  
21 evidence.)

22 MR. FELS: And if we could publish it, please.

23 (Exhibit published.)

24 BY MR. FELS:

25 Q Okay, what's here (indicating) at the top?

Bagetis - direct - Fels

2526

1 A That's the USS MacInerney.

2 Q And we'll change color here. What's the blue circle at  
3 the bottom?

4 A SPSS.

5 Q So you were describing how were you able to tow this  
6 vessel?

7 A We hooked up the tow line on the stern, which is the rear  
8 of the US MacInerney. The tow line, and based on the -- and  
9 then we towed the SPSS. And based on -- it's flat right here  
10 (indicating), but originally the sea conditions were pretty  
11 rough.

12 So going back to my previous statement a challenging  
13 tow. We had to make headway at a certain angle in order to  
14 safely ensure that we could tow this SPSS safely back to Costa  
15 Rica. We're talking several, you know, 3 -- 300-plus nautical  
16 miles. So it's a long transit. Various winds and sea  
17 conditions. So it was definitely challenging. And we  
18 maintained a lookout, actually a two-person integrity lookout  
19 on the stern at all times; plus, we had a lookout on the  
20 bridge at all times. And we constantly had to adjust course  
21 and speed based on the weather conditions.

22 Q You were able to get it back into port, though?

23 A Yes; safely, no damage.

24 MR. FELS: We have no further questions, Your Honor.

25 THE COURT: Any cross?

SAM

OCR

RMR

CRR

RPR

Bagetis - cross - Lichtman

2527

1 MR. LICHTMAN: Very few, Judge.

2 CROSS-EXAMINATION

3 BY MR. LICHTMAN:

4 Q Good afternoon, sir.

5 A Good afternoon.

6 Q And thank you for your service.

7 A Thank you.

8 THE COURT: Mr. Lichtman, can you get a mic a little  
9 closer to you?

10 MR. LICHTMAN: Oh, yeah.

11 Q You had said that there were four detainees on the ship?

12 A Yes, sir.

13 Q And you had -- you were the first law enforcement entity  
14 that gathered evidence from what occurred on the ship?

15 A My law enforcement detachment team.

16 Q Right.

17 A Yes, sir.

18 Q You were the first ones to interview the detainees?

19 A Yes.

20 Q And you also gathered cell phones that they had?

21 A Correct.

22 Q And there were many cell phones, I presume?

23 A Many electronic devices, cell phones included was part of  
24 that.

25 Q And you had some logs that you also seized?

SAM

OCR

RMR

CRR

RPR

Bagetis - cross - Lichtman

2528

1 A Correct, sir.

2 Q And you reviewed them?

3 A Yes.

4 Q And you took notes?

5 A That is correct, sir.

6 Q You made many reports in connection with your search and  
7 seizure of the SPSS?

8 A Yes, sir.

9 Q And in none of your interviews or any of your reviews of  
10 the notes or going through the cell phone material inside the  
11 logbooks, the name Joaquin Guzmán was nowhere to be found?

12 A I can't recall, sir.

13 Q Well, did you prepare for your testimony today?

14 A Yes, sir.

15 Q And you reviewed your many reports that were in  
16 connection with the search and seizure of the SPSS?

17 A Sir, there was hundreds --

18 Q It's just a yes or no question, sir.

19 A I am going to answer anyway, sir.

20 THE COURT: Hold on. Everyone stop, stop.

21 If you can answer the question yes or no, do that  
22 first. The Government will get another chance to ask you more  
23 questions if they want to bring more out.

24 Can you answer that question yes or no?

25 THE WITNESS: Can you repeat the question, sir?

SAM

OCR

RMR

CRR

RPR



Bagetis - cross - Lichtman

2529

1 MR. LICHTMAN: Yes.

2 BY MR. LICHTMAN:

3 Q You reviewed all of your reports. You provided reports  
4 to the government and you reviewed them prior to your  
5 testimony today?

6 A Correct.

7 Q And you don't recall whether or not you had gathered any  
8 information on Joaquin Guzmán in connection with that search  
9 and seizure that day?

10 A I can't recall that name, specific name, one way or  
11 another.

12 Q Well, you know that you're here now for the matter of  
13 United States versus Joaquin Guzmán, correct?

14 A Correct.

15 Q And lastly, you had interviewed the master of the SPSS or  
16 somebody on your team had?

17 A Yes.

18 Q And you gathered that report?

19 A Yes.

20 Q And you provided it to the Government?

21 A Yes.

22 Q And there was mention by that master about a special  
23 agent named Garcia?

24 A Yes.

25 Q Do you know what United States law enforcement entity

Bagetis - cross - Lichtman

2530

1 that special agent was from?

2 A I believe DEA.

3 MR. LICHTMAN: Nothing further.

4 THE COURT: Any redirect?

5 MR. FELS: No redirect.

6 THE COURT: All right, you may step down. Thank you  
7 very much.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 THE COURT: Government's next witness.

11 MR. FELS: Your Honor, that's --

12 THE COURT: Okay.

13 Ladies and gentlemen, as I mentioned to you at the  
14 beginning of the trial, a trial is not like a choreographed  
15 Broadway play, there are a lot of moving pieces. They've got  
16 to get into the right place at the right time. This afternoon  
17 a piece did not come around transportation-wise the way we  
18 would have liked it to, and I know you are going to be very  
19 upset about this, but we are going to have to let you go home  
20 early.

21 So we have a long weekend coming up in front of us.  
22 Please remember, stay away from all publicity about the case.  
23 Keep quiet to everyone in the world about your service on this  
24 jury or in this case. Do not do any research on the case. Do  
25 not go onto Google or Bing or Yahoo or anything else. Keep an

Bagetis - cross - Lichtman

2531

1 open mind. Do not post anything to social media. And we will  
2 see you on Monday at 9:30.

3 Thanks for your hard work.

4 (Jury exits.)

5 THE COURT: Just so the parties know, the jury has  
6 advised Ms. Clarke that they do not object to sitting on  
7 Friday, January 4th. So that will be a trial day. All right?

8 Anything else?

9 MS. PARLOVECCHIO: Not from the Government, Your  
10 Honor.

11 THE COURT: Have a good weekend.

12 MR. BALAREZO: Thank you.

13 MR. LICHTMAN: Thank you, Judge.

14 MS. PARLOVECCHIO: Thank you.

15

16 (Matter adjourned to Monday, December 10, 2018 at 9:30 a.m.)

17

18 ooo0ooo

19

20

21

22

23

24

25

I N D E X

WITNESS

PAGE

**STEVEN DeMAYO**

DIRECT EXAMINATION BY MR. ROBOTTI 2372

CROSS-EXAMINATION BY MR. BALAREZO 2454

**ROBERT JOHNSON**

DIRECT EXAMINATION BY MS. PARLOVECCHIO 2458

CROSS-EXAMINATION BY MR. BALAREZO 2475

REDIRECT EXAMINATION BY MS. PARLOVECCHIO 2477

**ADRIAN IBAÑEZ**

DIRECT EXAMINATION BY MR. FELS 2481

CROSS-EXAMINATION BY MR. BALAREZO 2491

**KHRISHNA JAMES**

DIRECT EXAMINATION BY MR. FELS 2494

CROSS-EXAMINATION BY MR. BALAREZO 2501

2533

I N D E X

WITNESS

PAGE

**TODD JAMES BAGETIS**

DIRECT EXAMINATION BY MR. FELS 2503

CROSS-EXAMINATION BY MR. LICHTMAN 2527

E X H I B I T S

Government's Exhibits 74A and 74B 2375

Government's Exhibit 32 2376

Government's Exhibit 57 2377

Government's Exhibit 216-1 2379

Government's Exhibit 403-5 2381

SAM

OCR

RMR

CRR

RPR

2534

E X H I B I T S

Government's Exhibit 403-4	2383
Government's Exhibit 403-6	2385
Government's Exhibits 216-19 and 216-29	2388
Government's Exhibits 216-34 and 216-35	2394
Government's Exhibit 216-32 and 216-33	2397
Government's Exhibits 216-2A to 216-10	2401
Government's Exhibits 216-11 to 216-17	2414
Government's Exhibits 507-3 and 507-3A	2420
Government's Exhibit 216-18	2424
Government's Exhibits 403-1 to 403-3 and 403-7 to 403-9	2425

SAM

OCR

RMR

CRR

RPR

2535

E X H I B I T S

Government's Exhibit 216-42	2426
Government's Exhibits 216-30 and 216-31	2437
Government's Exhibits 401-2 to 401-10-B	2439
Government's Exhibit 216-43 to 216-46	2440
Government's Exhibits 507-2 and 507-2A	2449
Government's Exhibits 507-1 and 507-1A	2453
Government's Exhibits 207-2 and 207-3	2464
Government's Exhibits 207-4 through 207-8	2466
Government's Exhibits 207-1 and 207-9	2470
Government's Exhibits 201-10 and 207-11	2472
Government's Exhibit 52	2484

SAM

OCR

RMR

CRR

RPR

2536

E X H I B I T S

Government's Exhibit 51 2485

Government's Exhibit 609-J 2500

Government's Exhibit 202-14 2505

Government's Exhibit 202-2 2510

Government's Exhibit 202-1 2515

Government's Exhibits 202-3 and 202-4 2518

Government's Exhibits 202-5 through 202-8 2521

Government's Exhibit 202-9 2524

Government's Exhibit 202-10 2525

SAM

OCR

RMR

CRR

RPR